House Engrossed Senate Bill

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KEN BENNETT
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CHAPTER 95

SENATE BILL 1196

AN ACT

AMENDING SECTIONS 11-952.01, 15-101, 15-102 AND 15-106, ARIZONA REVISED STATUTES; REPEALING SECTION 15-108, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-183, 15-184, 15-185, 15-203 AND 15-238, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-241.01, 15-248 AND 15-248.01; AMENDING TITLE 15, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-257; AMENDING SECTIONS 15-302, 15-321, 15-341 AND 15-382, ARIZONA REVISED STATUTES; REPEALING SECTION 15-509, ARIZONA REVISED STATUTES; AMENDING SECTIONS 15-521, 15-532, 15-534, 15-534.01, 15-701.01, 15-761 AND 15-771, ARIZONA REVISED STATUTES; REPEALING SENATE BILL 1187, SECTION 27, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTIONS 15-808, 15-816.01, 15-901, 15-902, 15-905, 15-915 AND 15-943, ARIZONA REVISED STATUTES; AMENDING SECTION 15-947, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 207, SECTION 4; REPEALING SECTION 15-947, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 287, SECTION 14; AMENDING SECTIONS 15-947.01, 15-961, 15-962, 15-964, 15-973, 15-973.01, 15-991 AND 15-1042, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 10, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1225; AMENDING SECTIONS 15-2002, 15-2022, 15-2031, 15-2041 AND 38-618.01, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-781; REPEALING SECTION 41-3010.25, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3019.01; AMENDING SECTIONS 42-6004 AND 43-1089, ARIZONA REVISED STATUTES; REPEALING SENATE BILL 1187, SECTION 74, FORTY-NINTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 11-952.01, Arizona Revised Statutes, is amended to read:

11-952.01. Public agency pooling of property, fidelity, liability, workers' compensation, life, health, accident and disability coverage; exemptions; board of trustees; contract; termination; audit; insolvency; definition

A. In addition to other authority granted pursuant to this title, two or more public agencies may enter into contracts or agreements pursuant to this article for the joint purchasing of insurance, including prepaid legal insurance or reinsurance, or to pool retention of their risks for property, fidelity and liability losses and to provide for the payment of such property loss, fidelity loss, prepaid legal insurance or claim of liability made against any member of the pool, including any elected or appointed official, officer or employee covered by the pool, on a cooperative or contract basis with one another or may jointly form a nonprofit corporation or enter into a trust agreement to carry out ~~the provisions of~~ this section in their behalf directly or by contract with a private party.

B. In addition to other authority granted pursuant to this title, two or more public agencies may enter into contracts or agreements pursuant to this article to establish a workers' compensation pool to provide for the payment of workers' compensation claims pursuant to title 23, chapter 6 on a cooperative or contract basis with one another or may jointly form a nonprofit corporation or enter into a trust agreement to carry out ~~the provisions of~~ this section in their behalf directly or by contract with a private party. A workers' compensation pool established pursuant to this subsection may provide coverage for workers' compensation, employers' liability and occupational disease claims. A workers' compensation pool is subject to approval as a self-insurer by the industrial commission pursuant to section 23-961, subsection A, paragraph 2 and is subject to title 23, chapter 6 and rules adopted pursuant to that chapter in addition to the requirements of this section. The industrial commission, by rule, resolution or order, may adopt requirements for the administration of a workers' compensation pool under this subsection, including separation or commingling of funds, accounting, auditing, reporting, actuarial standards and procedures.

C. In addition to other authority granted pursuant to this title, two or more public agencies may enter into contracts or agreements for the joint purchase of life insurance, disability insurance, accident insurance or health benefits plan insurance or may pool retention of their risks of loss for life, disability, health or accident claims made against any public agency member of the pool or to jointly provide the health and medical services authorized in section 36-2907. Public agencies may establish pools for the purposes of this subsection by any of the following methods:

1. On a cooperative or contract basis.
2. By the formation of a nonprofit corporation.
3. By contracts or intergovernmental agreements with the Arizona health care cost containment system administration.
4. By the execution of a trust agreement directly by the agencies or by contracting with a third party.

D. In addition to other authority granted pursuant to this title, two or more public agencies may enter into contracts or agreements pursuant to this article for the joint purchasing of insurance for property, liability or workers' compensation losses or to pool retention of their risks for property and liability loss to cover the public agency, its elected officials and employees and the contractor and subcontractor of every tier engaged in the performance of a construction project for the public agency. Public agencies may establish pools for the purpose of this subsection by any of the following methods:

1. On a cooperative or contract basis.
2. By the formation of a nonprofit corporation.
3. By the execution of a trust agreement directly by the agencies or by contracting with a third party.

E. Section 10-11301 does not apply to nonprofit corporations formed pursuant to this section.

F. Title 41, chapter 23 does not apply to the procurement of insurance or reinsurance, or to the procurement of the services provided for in subsection K, paragraph 8 of this section, by any pool established pursuant to this section.

G. Title 43 does not apply to any pool established pursuant to this section. Any pool established pursuant to this section is exempt from taxation under title 43.

H. Each pool shall be operated by a board of trustees consisting of at least three persons who are elected officials or employees of public entities within this state. The board of trustees shall notify the director of the department of insurance of the existence of the pool and shall file with the director and with the attorney general a copy of the intergovernmental agreement or contract. The attorney general shall file a copy of the agreement or contract with the secretary of state as required by section 11-952. The board of trustees of each group shall do all of the following:

1. Establish terms and conditions of coverage within the pool, including exclusions of coverage.
2. Ensure that all claims are paid promptly.
3. Take all necessary precautions to safeguard the assets of the group.
4. Maintain minutes of its meetings.
5. Designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the group and

delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.

6. If the pool is a workers' compensation pool, file a copy of the agreement with the director of the industrial commission.

I. If the pool includes private, nonprofit educational institutions, each private, nonprofit educational institution shall post a bond, cash deposit or other comparable financial security in an amount that is equal to at least one and one-half times the amount of the private, nonprofit educational institution's annual premium to ensure payment of the school's or institution's legal liabilities and other obligations if the pool is determined to be insolvent or is otherwise found to be unable to discharge the pool's legal liabilities and other obligations pursuant to subsection N of this section.

J. The board of trustees shall not:

1. Extend credit to individual members for payment of a premium, except pursuant to payment plans established by the board.

2. Borrow any monies from the group or in the name of the group except in the ordinary course of business.

K. In addition to the requirements of section 11-952, a contract or agreement made pursuant to this section shall contain the following:

1. A provision for a system or program of loss control.

2. A provision for termination of membership, including either:

(a) Cancellation of individual members of the pool by the pool.

(b) Election by an individual member of the pool to terminate its participation.

3. A provision requiring the pool to pay all claims for which each member incurs liability during each member's period of membership.

4. A provision stating that each member is not relieved of its liability incurred during the member's period of membership except through the payment of losses by the pool or by the member.

5. A provision for the maintenance of claim reserves equal to known incurred losses and an estimate of incurred but not reported claims.

6. A provision for a final accounting and settlement of the obligations of or refunds to a terminating member to occur when all incurred claims are concluded, settled or paid.

7. A provision that the pool may establish offices where necessary in this state and employ necessary staff to carry out the purposes of the pool.

8. A provision that the pool may retain legal counsel, actuaries, auditors, engineers, private consultants and advisors.

9. A provision that the pool may make and alter bylaws and rules pertaining to the exercise of its purpose and powers.

10. A provision that the pool may purchase, lease or rent real and personal property it deems necessary.

11. A provision that the pool may enter into financial services agreements with banks and other financial institutions, that it may issue checks in its own name and that it may invest its monies in equity securities, mutual funds and investment funds registered with the United States securities and exchange commission, debt obligations and any eligible investment permitted by section 35-323.

L. A pool or a terminating member shall provide at least ninety days' written notice of the termination or cancellation. A workers' compensation pool shall notify the industrial commission of the termination or cancellation of a member thirty days before the termination or cancellation of the member.

M. The pool shall be audited annually at the expense of the pool by a certified public accountant, with a copy of the report submitted to the governing body or chief executive officer of each member of the pool and to the director of the department of insurance. The board of trustees of the pool shall obtain an appropriate actuarial evaluation of the claim reserves of the pool, including an estimate of the incurred but not reported claims. The department of insurance shall examine each public agency pool once every five years. The director of the department of insurance may examine a public agency pool sooner than five years from the preceding examination if the director has reason to believe that the pool is insolvent. The costs of any examination shall be paid by the pool subject to the examination.

N. If, as a result of the annual audit or an examination by the director of the department of insurance, it appears that the assets of the pool are insufficient to enable the pool to discharge its legal liabilities and other obligations, the director of the department of insurance shall notify the administrator and the board of trustees of the pool of the deficiency and the director's list of recommendations to abate the deficiency, including a recommendation not to add any new members until the deficiency is abated. If the pool fails to comply with the recommendations within sixty days after the date of the notice, the director shall notify the chief executive officer or the governing bodies, if any, of the members of the pool, the governor, the president of the senate and the speaker of the house of representatives that the pool has failed to comply with the recommendations of the director.

O. If a pool is determined to be insolvent or is otherwise found to be unable to discharge its legal liabilities and other obligations, each agreement or contract shall provide that the members of the pool shall be assessed on a pro rata basis as calculated by the amount of each member's annual contribution in order to satisfy the amount of deficiency. The assessment shall not exceed the amount of each member's annual contribution to the pool.

P. A pool established pursuant to this section may make available programs providing for insurance coverages described in subsections A, B and C of this section to those charter schools governed by section 15-183,

subsection M and, except for a workers' compensation pool, to private, nonprofit educational institutions.

Q. In addition to the authority set forth in this title, a pool established pursuant to this section may invest public monies on behalf of pool members, but any such investments shall be limited to those permitted by section 35-323, EXCEPT AS PROVIDED IN SECTION 15-1225, SUBSECTION G. A pool established pursuant to this section may not invest monies that are required by law to be deposited with a county treasurer.

R. A pool established pursuant to this section, by the adoption of a resolution of continuing effect, may authorize and request the state treasurer to invest funds for the pool pursuant to section 35-326.

S. For the purposes of this section, "health benefits plan" means a hospital or medical service corporation policy or certificate, a health care services corporation contract, a multiple employer welfare arrangement or any other arrangement under which health and medical benefits and services are provided to two or more persons.

Sec. 2. Section 15-101, Arizona Revised Statutes, is amended to read:

15-101. Definitions

In this title, unless the context otherwise requires:

1. "Accommodation school" means either:

(a) A school which is operated through the county board of supervisors and the county school superintendent and which the county school superintendent administers to serve a military reservation or territory which is not included within the boundaries of a school district.

(b) A school that provides educational services to homeless children or alternative education programs as provided in section 15-308, subsection B.

(c) A school that is established to serve a military reservation, the boundaries of which are coterminous with the boundaries of the military reservation on which the school is located.

2. "Assessed valuation" means the valuation derived by applying the applicable percentage as provided in title 42, chapter 15, article 1 to the full cash value or limited property value, whichever is applicable, of the property.

3. "CHARTER HOLDER" MEANS A PERSON THAT ENTERS INTO A CHARTER WITH THE STATE BOARD FOR CHARTER SCHOOLS. FOR THE PURPOSES OF THIS PARAGRAPH, "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR PUBLIC OR PRIVATE ORGANIZATION OF ANY KIND.

~~3.~~ 4. "Charter school" means a public school established by contract with a district governing board, the state board of education or the state board for charter schools pursuant to article 8 of this chapter to provide learning that will improve pupil achievement.

~~4.~~ 5. "Child with a disability" means a child with a disability as defined in section 15-761.

~~5.~~ 6. "Class A bonds" means general obligation bonds approved by a vote of the qualified electors of a school district at an election held on or before December 31, 1998.

~~6.~~ 7. "Class B bonds" means general obligation bonds approved by a vote of the qualified electors of a school district at an election held from and after December 31, 1998.

~~7.~~ 8. "Competency" means a demonstrated ability in a skill at a specified performance level.

~~8.~~ 9. "Course" means organized subject matter in which instruction is offered within a given period of time and for which credit toward promotion, graduation or certification is usually given. A course consists of knowledge selected from a subject for instructional purposes in the schools.

~~9.~~ 10. "Course of study" means a list of required and optional subjects to be taught in the schools.

~~10.~~ 11. "Dual enrollment course" means a college level course that is conducted on the campus of a high school or on the campus of a joint technological education district, that is applicable to an established community college academic degree or certificate program and that is transferable to a university under the jurisdiction of the Arizona board of regents. A dual enrollment course that is applicable to a community college occupational degree or certificate program may be transferable to a university under the jurisdiction of the Arizona board of regents.

~~11.~~ 12. "Fiscal year" means the year beginning July 1 and ending June 30.

~~12.~~ 13. "Governing board" means a body organized for the government and management of the schools within a school district or a county school superintendent in the conduct of an accommodation school.

~~13.~~ 14. "Lease" means an agreement for conveyance and possession of real or personal property.

~~14.~~ 15. "Limited property value" means the value determined pursuant to title 42, chapter 13, article 7. Limited property value shall be used as the basis for assessing, fixing, determining and levying primary property taxes.

~~15.~~ 16. "Parent" means the natural or adoptive parent of a child or a person who has custody of a child.

~~16.~~ 17. "Person who has custody" means a parent or legal guardian of a child, a person to whom custody of the child has been given by order of a court or a person who stands in loco parentis to the child.

~~17. "P.L. 81-874" means Public Law 81-874 or its successors.~~

18. "Primary property taxes" means all ad valorem taxes except for secondary property taxes.

19. "Private school" means a nonpublic institution where instruction is imparted.

20. "School" means any public institution established for the purposes of offering instruction to pupils in programs for preschool children with

disabilities, kindergarten programs or any combination of grades one through twelve.

21. "School district" means a political subdivision of this state with geographic boundaries organized for the purpose of the administration, support and maintenance of the public schools or an accommodation school.

22. "Secondary property taxes" means ad valorem taxes used to pay the principal of and the interest and redemption charges on any bonded indebtedness or other lawful long-term obligation issued or incurred for a specific purpose by a school district or a community college district and amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation.

23. "Subject" means a division or field of organized knowledge, such as English or mathematics, or a selection from an organized body of knowledge for a course or teaching unit, such as the English novel or elementary algebra.

Sec. 3. Section 15-102, Arizona Revised Statutes, is amended to read:

15-102. Parental involvement in the school; definition

A. The governing board, in consultation with parents, teachers and administrators, shall develop and adopt a policy to promote the involvement of parents and guardians of children enrolled in the schools within the school district, including:

1. A plan for parent participation in the schools which is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline.

2. Procedures by which parents may learn about the course of study for their children and review learning materials.

3. Procedures by which parents who object to any learning material or activity on the basis that it is harmful may withdraw their children from the activity or from the class or program in which the material is used. Objection to a learning material or activity on the basis that it is harmful includes objection to a material or activity because it questions beliefs or practices in sex, morality or religion.

B. The policy adopted by the governing board pursuant to this section may also include the following components:

1. A plan by which parents will be made aware of the district's parental involvement policy and ~~the provisions of~~ this section, including:

(a) Rights under the family educational rights and privacy act of 1974 (20 UNITED STATES CODE SECTION 1232g) relating to access to children's official records.

(b) The parent's right to inspect the school district policies and curriculum.

2. Efforts to encourage the development of parenting skills.

3. The communication to parents of techniques designed to assist the child's learning experience in the home.

4. Efforts to encourage access to community and support services for children and families.

5. The promotion of communication between the school and parents concerning school programs and the academic progress of the parents' children.

6. Identifying opportunities for parents to participate in and support classroom instruction at the school.

7. Efforts to, with appropriate training, support parents as shared decision makers and to encourage membership on school councils.

8. The recognition of the diversity of parents and the development of guidelines that promote widespread parental participation and involvement in the school at various levels.

9. The development of preparation programs and specialized courses for certificated employees and administrators that promote parental involvement.

10. The development of strategies and programmatic structures at schools to encourage and enable parents to participate actively in their children's education.

C. A PARENT SHALL SUBMIT A WRITTEN REQUEST FOR INFORMATION PURSUANT TO THIS SECTION DURING REGULAR BUSINESS HOURS TO EITHER THE SCHOOL PRINCIPAL AT THE SCHOOL SITE OR THE SUPERINTENDENT OF THE SCHOOL DISTRICT AT THE OFFICE OF THE SCHOOL DISTRICT. WITHIN TEN DAYS OF RECEIVING THE REQUEST FOR INFORMATION, THE SCHOOL PRINCIPAL OR THE SUPERINTENDENT OF THE SCHOOL DISTRICT SHALL EITHER DELIVER THE REQUESTED INFORMATION TO THE PARENT OR SUBMIT TO THE PARENT A WRITTEN EXPLANATION OF THE REASONS FOR THE DENIAL OF THE REQUESTED INFORMATION. IF THE REQUEST FOR INFORMATION IS DENIED OR THE PARENT DOES NOT RECEIVE THE REQUESTED INFORMATION WITHIN FIFTEEN DAYS AFTER SUBMITTING THE REQUEST FOR INFORMATION, THE PARENT MAY SUBMIT A WRITTEN REQUEST FOR THE INFORMATION TO THE SCHOOL DISTRICT GOVERNING BOARD, WHICH SHALL FORMALLY CONSIDER THE REQUEST AT THE NEXT SCHEDULED PUBLIC MEETING OF THE GOVERNING BOARD THAT THE REQUEST CAN BE PROPERLY NOTICED ON THE AGENDA.

~~C.~~ D. For the purposes of this section, "parent" means the parent or person who has custody of the child.

Sec. 4. Section 15-106, Arizona Revised Statutes, is amended to read:

15-106. Identity verified fingerprints

Beginning on January 1, 2008, an applicant who applies for a new teaching certificate in order to teach in a school district, A PARTICIPANT IN FIELD EXPERIENCE OR STUDENT TEACHING IN THIS STATE, an applicant who applies for a renewal of an existing teaching certificate in order to continue teaching in a school district, an applicant who is required for the first time to be fingerprinted in order to teach in a charter school and an applicant who is required to renew fingerprints in order to continue teaching in a charter school pursuant to section 15-183, ~~and~~ an applicant who is required to be fingerprinted pursuant to section 15-512 AND ANY PERSON WHO IS CONTRACTED BY THIS STATE, BY A SCHOOL DISTRICT OR BY A CHARTER SCHOOL TO PROVIDE TUTORING SERVICES shall submit for an identity verified fingerprint

card that will be used by the department of public safety to process the fingerprint clearance card pursuant to title 41, chapter 12, article 3.1 as follows:

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

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

(a) A blank applicant fingerprint card.

(b) An application for a fingerprint clearance card.

(c) Instructions for the return of the application packet.

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

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

5. The applicant, at the time that identity verified fingerprints are taken, shall provide the law enforcement agency, school district, charter school or other entity with a completed application form for a fingerprint clearance card, the fingerprint card with the requisite demographic information and the required fee in the form of a money order or cashier's check made out to the ~~Arizona~~ department of public safety. The law enforcement agency, school district, charter school or other entity shall verify the identity of the applicant through recognized means of photographic identification and a comparison of the demographic information on the photographic identification against the demographic information on the application form and the fingerprint card. The authorized person taking the fingerprints shall enter on the application form a description of the photographic identification presented by the applicant. The law enforcement agency, school district, charter school or other entity shall place the completed fingerprint card, completed application form or any other form required by the department of public safety and the fee provided by the applicant in the ~~post-paid~~ POSTAGE PREPAID envelope provided by the department of public safety and mail it to the fingerprinting division ~~at~~ IN the department of public safety. A law enforcement agency, school district, charter school or other entity may charge the applicant a reasonable fee for services provided pursuant to this section.

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

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

8. A person who has a set of identity verified fingerprints on file with the department of public safety pursuant to this section shall not be required to submit a new set of fingerprints to the department of public safety to renew the person's fingerprint clearance card. On receipt of the required application form and fee for a renewal fingerprint clearance card from a person required to submit identity verified fingerprints, the department of public safety shall attempt to use the electronic copy of the applicant's identity verified fingerprints that are retained pursuant to this section to conduct the ~~fingerprint~~ state and national criminal records checks. The department of public safety may require the applicant to submit a new set of identity verified fingerprints if the department of public safety determines that the original fingerprints submitted have been lost~~,~~ OR damaged or are found to be otherwise of insufficient quality to conduct a valid technical fingerprint search either by the department of public safety or the federal bureau of investigation.

9. A PERSON WHO PARTICIPATES IN A TEACHER PREPARATION PROGRAM THAT IS APPROVED BY THE STATE BOARD OF EDUCATION AND WHO DOES NOT PARTICIPATE IN FIELD EXPERIENCE OR STUDENT TEACHING IN THIS STATE SHALL NOT BE REQUIRED TO OBTAIN A FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION.

Sec. 5. Repeal

Section 15-108, Arizona Revised Statutes, is repealed.

Sec. 6. Section 15-183, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

(c) In the second consecutive year that a school district is determined to be out of compliance with the uniform system of financial records, within fifteen days of the determination of noncompliance, the school district shall notify by certified mail each charter school sponsored by the school district that the school district is out of compliance with the uniform system of financial records. A charter school that receives a notification of school district noncompliance pursuant to this subdivision shall file a written sponsorship transfer application within forty-five days with the state board of education, the state board for charter schools or the school district governing board if the charter school is located within the geographic boundaries of that school district. A charter school that receives a notification of school district noncompliance may request an extension of time to file a sponsorship transfer application, and the state board of education, the state board for charter schools or a school district governing board may grant an extension of not more than an additional thirty days if good cause exists for the extension. The state board of education and the state board for charter schools shall approve a sponsorship transfer application pursuant to this paragraph.

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

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

2. The applicant may submit the application to the state board of education or the state board for charter schools. The state board of education or the state board for charter schools may approve the application if the application meets the requirements of this article and may approve the charter if the proposed sponsor determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school. The state board of education or the state board for charter schools may approve any charter schools transferring charters. The state board of education and the state board for charter schools shall approve any charter schools transferring charters from a school district that is determined to be out of compliance with the uniform system of financial records pursuant to this section, but may require the charter school to sign a new charter that is equivalent to the charter awarded by the former sponsor. If the state board of education or the state board for charter schools rejects the preliminary application, the state board of education or the state board for charter schools shall notify the applicant in writing of the reasons for the rejection and of suggestions for improving the application. An applicant may submit a revised application for reconsideration by the state board of education or the state board for charter schools. The applicant may request, and the state board of education or the state board for charter schools may provide, technical assistance to improve the application.

3. Each applicant seeking to establish a charter school shall submit a full set of fingerprints to the approving agency for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. If an applicant will have direct contact with students, the applicant shall possess a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The criminal records check shall be completed before the issuance of a charter.

4. All persons engaged in instructional work directly as a classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist or principal shall have a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1, unless the person is a volunteer or guest speaker who is accompanied in the classroom by a person with a valid fingerprint clearance card. A charter school shall not employ a teacher whose certificate has been revoked for a violation of section 15-507 or 15-550 or for any offense that placed a pupil in danger. All other personnel shall be fingerprint checked pursuant to section 15-512. Before

employment, the charter school shall make documented, good faith efforts to contact previous employers of a person to obtain information and recommendations that may be relevant to a person's fitness for employment as prescribed in section 15-512, subsection F. The charter school shall notify the department of public safety if the charter school or sponsor receives credible evidence that a person who possesses a valid fingerprint clearance card is arrested for or is charged with an offense listed in section 41-1758.03, subsection B. Charter schools may hire personnel that have not yet received a fingerprint clearance card if proof is provided of the submission of an application to the department of public safety for a fingerprint clearance card and if the charter school that is seeking to hire the applicant does all of the following:

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

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

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

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

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

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

5. A CHARTER SCHOOL THAT COMPLIES WITH THE FINGERPRINTING REQUIREMENTS OF THIS SECTION SHALL BE DEEMED TO HAVE COMPLIED WITH SECTION 15-512 AND IS ENTITLED TO THE SAME RIGHTS AND PROTECTIONS PROVIDED TO SCHOOL DISTRICTS BY SECTION 15-512.

~~5.~~ 6. If a charter school operator is not already subject to a public meeting or hearing by the municipality in which the charter school is located, the operator of a charter school shall conduct a public meeting at least thirty days before the charter school operator opens a site or sites for the charter school. The charter school operator shall post notices of the public meeting in at least three different locations that are within three hundred feet of the proposed charter school site.

~~6.~~ 7. A person who is employed by a charter school or who is an applicant for employment with a charter school, who is arrested for or charged with a nonappealable offense listed in section 41-1758.03, subsection B and who does not immediately report the arrest or charge to the person's supervisor or potential employer is guilty of unprofessional conduct and the

person shall be immediately dismissed from employment with the charter school or immediately excluded from potential employment with the charter school.

~~7.~~ 8. A person who is employed by a charter school and who is convicted of any nonappealable offense listed in section 41-1758.03, subsection B or is convicted of any nonappealable offense that amounts to unprofessional conduct under section 15-550 shall immediately do all of the following:

(a) Surrender any certificates issued by the department of education.

(b) Notify the person's employer or potential employer of the conviction.

(c) Notify the department of public safety of the conviction.

(d) Surrender the person's fingerprint clearance card.

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

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

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

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

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

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

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

6. That, except as provided in this article, it is subject to the same financial and electronic data submission requirements as a school district, including the uniform system of financial records as prescribed in chapter 2, article 4 of this title, procurement rules as prescribed in section 15-213 and audit requirements. The auditor general shall conduct a comprehensive review and revision of the uniform system of financial records to ensure that

1 the provisions of the uniform system of financial records that relate to
2 charter schools are in accordance with commonly accepted accounting
3 principles used by private business. A school's charter may include
4 exceptions to the requirements of this paragraph that are necessary as
5 determined by the district governing board, the state board of education or
6 the state board for charter schools. The department of education or the
7 office of the auditor general may conduct financial, program or compliance
8 audits.
9 7. Compliance with all federal and state laws relating to the
10 education of children with disabilities in the same manner as a school
11 district.
12 8. That it provides for a governing body for the charter school that
13 is responsible for the policy decisions of the charter school.
14 NOTWITHSTANDING SECTION 1-216, IF THERE IS A VACANCY OR VACANCIES ON THE
15 GOVERNING BODY, A MAJORITY OF THE REMAINING MEMBERS OF THE GOVERNING BODY
16 CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, UNLESS THAT QUORUM IS
17 PROHIBITED BY THE CHARTER SCHOOL'S OPERATING AGREEMENT.
18 9. That it provides a minimum of one hundred seventy-five
19 instructional days before June 30 of each fiscal year unless it is operating
20 on an alternative calendar approved by its sponsor. The superintendent of
21 public instruction shall adjust the apportionment schedule accordingly to
22 accommodate a charter school utilizing an alternative calendar.
23 F. The charter of a charter school shall include a description of the
24 charter school's personnel policies, personnel qualifications and method of
25 school governance and the specific role and duties of the sponsor of the
26 charter school. A charter school shall keep on file the resumes of all
27 current and former employees who provide instruction to pupils at the charter
28 school. Resumes shall include an individual's educational and teaching
29 background and experience in a particular academic content subject area. A
30 charter school shall inform parents and guardians of the availability of the
31 resume information and shall make the resume information available for
32 inspection on request of parents and guardians of pupils enrolled at the
33 charter school. Nothing in this subsection shall be construed to require any
34 charter school to release personally identifiable information in relation to
35 any teacher or employee, including the teacher's or employee's address,
36 salary, social security number or telephone number.
37 G. The charter of a charter school may be amended at the request of
38 the governing body of the charter school and on the approval of the sponsor.
39 H. Charter schools may contract, sue and be sued.
40 I. An approved plan to establish a charter school is effective for
41 fifteen years from the first day of operation. At least eighteen months
42 before the expiration of the approved plan, the sponsor shall notify the
43 charter school that the charter school may apply for renewal. A charter
44 school that elects to apply for renewal shall file an application for renewal
45 at least fifteen months before the expiration of the approved plan. In

1 addition to any other requirements, the application for renewal shall include
2 a detailed business plan for the charter school. The sponsor may deny the
3 request for renewal if, in its judgment, the charter school has failed to
4 complete the obligations of the contract or has failed to comply with this
5 article. A sponsor shall give written notice of its intent not to renew the
6 charter school's request for renewal to the charter school at least twelve
7 months before the expiration of the approved plan to allow the charter school
8 an opportunity to apply to another sponsor to transfer the operation of the
9 charter school. If the operation of the charter school is transferred to
10 another sponsor, the fifteen year period of the current charter shall be
11 maintained. A sponsor shall review a charter at five year intervals and may
12 revoke a charter at any time if the charter school breaches one or more
13 provisions of its charter. At least ninety days before the effective date of
14 the proposed revocation the sponsor shall give written notice to the operator
15 of the charter school of its intent to revoke the charter. Notice of the
16 sponsor's intent to revoke the charter shall be delivered personally to the
17 operator of the charter school or sent by certified mail, return receipt
18 requested, to the address of the charter school. The notice shall
19 incorporate a statement of reasons for the proposed revocation of the
20 charter. The sponsor shall allow the charter school at least ninety days to
21 correct the problems associated with the reasons for the proposed revocation
22 of the charter. The final determination of whether to revoke the charter
23 shall be made at a public hearing called for such purpose.
24 J. After renewal of the charter at the end of the fifteen year period
25 described in subsection I of this section, the charter may be renewed for
26 successive periods of fifteen years if the charter school and its sponsor
27 deem that the school is in compliance with its own charter and this article.
28 K. A charter school that is sponsored by the state board of education
29 or the state board for charter schools may not be located on the property of
30 a school district unless the district governing board grants this authority.
31 L. A governing board or a school district employee who has control
32 over personnel actions shall not take unlawful reprisal against another
33 employee of the school district because the employee is directly or
34 indirectly involved in an application to establish a charter school. A
35 governing board or a school district employee shall not take unlawful
36 reprisal against an educational program of the school or the school district
37 because an application to establish a charter school proposes the conversion
38 of all or a portion of the educational program to a charter school. For the
39 purposes of this subsection, "unlawful reprisal" means an action that is
40 taken by a governing board or a school district employee as a direct result
41 of a lawful application to establish a charter school and that is adverse to
42 another employee or an education program and:
43 1. With respect to a school district employee, results in one or more
44 of the following:
45 (a) Disciplinary or corrective action.

1 (b) Detail, transfer or reassignment.
2 (c) Suspension, demotion or dismissal.
3 (d) An unfavorable performance evaluation.
4 (e) A reduction in pay, benefits or awards.
5 (f) Elimination of the employee's position without a reduction in
6 force by reason of lack of monies or work.
7 (g) Other significant changes in duties or responsibilities that are
8 inconsistent with the employee's salary or employment classification.
9 2. With respect to an educational program, results in one or more of
10 the following:
11 (a) Suspension or termination of the program.
12 (b) Transfer or reassignment of the program to a less favorable
13 department.
14 (c) Relocation of the program to a less favorable site within the
15 school or school district.
16 (d) Significant reduction or termination of funding for the program.
17 M. Charter schools shall secure insurance for liability and property
18 loss. The governing body of a charter school that is sponsored by the state
19 board of education or the state board for charter schools may enter into an
20 intergovernmental agreement or otherwise contract to participate in an
21 insurance program offered by a risk retention pool established pursuant to
22 section 11-952.01 or 41-621.01 or the charter school may secure its own
23 insurance coverage. The pool may charge the requesting charter school
24 reasonable fees for any services it performs in connection with the insurance
25 program.
26 N. Charter schools do not have the authority to acquire property by
27 eminent domain.
28 O. A sponsor, including members, officers and employees of the
29 sponsor, is immune from personal liability for all acts done and actions
30 taken in good faith within the scope of its authority.
31 P. Charter school sponsors and this state are not liable for the debts
32 or financial obligations of a charter school or persons who operate charter
33 schools.
34 Q. The sponsor of a charter school shall establish procedures to
35 conduct administrative hearings on determination by the sponsor that grounds
36 exist to revoke a charter. Procedures for administrative hearings shall be
37 similar to procedures prescribed for adjudicative proceedings in title 41,
38 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
39 H, final decisions of the state board of education and the state board for
40 charter schools from hearings conducted pursuant to this subsection are
41 subject to judicial review pursuant to title 12, chapter 7, article 6.
42 R. The sponsoring entity of a charter school shall have oversight and
43 administrative responsibility for the charter schools that it sponsors.
44 S. Charter schools may pledge, assign or encumber their assets to be
45 used as collateral for loans or extensions of credit.

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

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

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

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

Sec. 7. Section 15-184, Arizona Revised Statutes, is amended to read:

15-184. <u>Charter schools; admission requirements</u>

A. A charter school shall enroll all eligible pupils who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building. A charter school shall give enrollment preference to pupils returning to the charter school in the second or any subsequent year of its operation and to siblings of pupils already enrolled in the charter school. A charter school that is sponsored by a school district governing board shall give enrollment preference to eligible pupils who reside within the boundaries of the school district where the charter school is physically located. A CHARTER SCHOOL MAY GIVE ENROLLMENT PREFERENCE TO AND RESERVE CAPACITY FOR PUPILS WHO ARE CHILDREN OF EMPLOYEES OF THE SCHOOL, EMPLOYEES OF THE CHARTER HOLDER, MEMBERS OF THE GOVERNING BODY OF THE SCHOOL OR DIRECTORS, OFFICERS, PARTNERS OR BOARD MEMBERS OF THE CHARTER HOLDER. If REMAINING capacity is insufficient to enroll all pupils

who submit a timely application, the charter school shall select pupils through an equitable selection process such as a lottery except that preference shall be given to siblings of a pupil selected through an equitable selection process such as a lottery.

B. Except as provided in subsection C OR D, a charter school shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language or athletic ability.

C. A charter school may limit admission to pupils within a given age group or grade level.

D. A CHARTER SCHOOL MAY PROVIDE INSTRUCTION TO PUPILS OF A SINGLE GENDER WITH THE APPROVAL OF THE SPONSOR OF THE CHARTER SCHOOL. AN EXISTING CHARTER SCHOOL MAY AMEND ITS CHARTER TO PROVIDE INSTRUCTION TO PUPILS OF A SINGLE GENDER, AND IF APPROVED BY THE SPONSOR OF THE CHARTER SCHOOL, MAY PROVIDE INSTRUCTION TO PUPILS OF A SINGLE GENDER AT THE BEGINNING OF THE NEXT SCHOOL YEAR.

~~D.~~ E. A charter school shall admit pupils who reside in the attendance area of a school or who reside in a school district that is under a court order of desegregation or that is a party to an agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination unless notice is received from the resident school that the admission would violate the court order or agreement. If a charter school admits a pupil after notice is received that the admission would constitute such a violation, the charter school is not allowed to include in its student count the pupils wrongfully admitted.

~~E.~~ F. A charter school may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

Sec. 8. Section 15-185, Arizona Revised Statutes, is amended to read:

15-185. <u>Charter schools; financing; civil penalty; transportation; definitions</u>

A. Financial provisions for a charter school that is sponsored by a school district governing board are as follows:

1. The charter school shall be included in the district's budget and financial assistance calculations pursuant to paragraph 3 of this subsection and chapter 9 of this title, except for chapter 9, article 4 of this title. The charter of the charter school shall include a description of the methods of funding the charter school by the school district. The school district shall send a copy of the charter and application, including a description of how the school district plans to fund the school, to the state board of education before the start of the first fiscal year of operation of the charter school. The charter or application shall include an estimate of the student count for the charter school for its first fiscal year of operation. This estimate shall be computed pursuant to the requirements of paragraph 3 of this subsection.

2. A school district is not financially responsible for any charter school that is sponsored by the state board of education or the state board for charter schools.

3. A school district that sponsors a charter school may:

(a) Increase its student count as provided in subsection B, paragraph 2 of this section during the first year of the charter school's operation to include those charter school pupils who were not previously enrolled in the school district. A charter school sponsored by a school district governing board is eligible for the assistance prescribed in subsection B, paragraph 4 of this section. The soft capital allocation as provided in section 15-962 for the school district sponsoring the charter school shall be increased by the amount of the additional assistance. The school district shall include the full amount of the additional assistance in the funding provided to the charter school.

(b) Compute separate weighted student counts pursuant to section 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter school pupils in order to maintain eligibility for small school district support level weights authorized in section 15-943, paragraph 1 for its noncharter school pupils only. The portion of a district's student count that is attributable to charter school pupils is not eligible for small school district support level weights.

4. If a school district uses the provisions of paragraph 3 of this subsection, the school district is not eligible to include those pupils in its student count for the purposes of computing an increase in its revenue control limit and district support level as provided in section 15-948.

5. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing an increase in its capital outlay revenue limit as provided in section 15-961, subsection C, except that if the charter school was previously a school in the district, the district may include in its student count any charter school pupils who were enrolled in the school district in the prior year.

6. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing the revenue control limit which is used to determine the maximum budget increase as provided in chapter 4, article 4 of this title unless the charter school is located within the boundaries of the school district.

7. If a school district converts one or more of its district public schools to a charter school and receives assistance as prescribed in subsection B, paragraph 4 of this section, and subsequently converts the charter school back to a district public school, the school district shall repay the state the total additional assistance received for the charter school for all years that the charter school was in operation. The repayment shall be in one lump sum and shall be reduced from the school district's

current year equalization assistance. The school district's general budget limit shall be reduced by the same lump sum amount in the current year.

B. Financial provisions for a charter school that is sponsored by the state board of education or the state board for charter schools are as follows:

1. The charter school shall calculate a base support level as prescribed in section 15-943, except that sections 15-941 and 15-942 do not apply to these charter schools.

2. Notwithstanding paragraph 1 of this subsection, the student count shall be determined initially using an estimated student count based on actual registration of pupils before the beginning of the school year. After the first one hundred days or two hundred days in session, as applicable, the charter school shall revise the student count to be equal to the actual average daily membership, as defined in section 15-901, or the adjusted average daily membership, as prescribed in section 15-902, of the charter school. A CHARTER SCHOOL THAT PROVIDES TWO HUNDRED DAYS OF INSTRUCTION MAY USE SECTION 15-902.02 FOR THE PURPOSES OF THIS SECTION. Before the one hundredth day or two hundredth day in session, as applicable, the state board of education or the state board for charter schools may require a charter school to report periodically regarding pupil enrollment and attendance, and the department of education may revise its computation of equalization assistance based on the report. A charter school shall revise its student count, base support level and additional assistance before May 15. A charter school that overestimated its student count shall revise its budget before May 15. A charter school that underestimated its student count may revise its budget before May 15.

3. A charter school may utilize section 15-855 for the purposes of this section. The charter school and the department of education shall prescribe procedures for determining average daily attendance and average daily membership.

4. Equalization assistance for the charter school shall be determined by adding the amount of the base support level and additional assistance. The amount of the additional assistance is one thousand four hundred seventy-four dollars sixteen cents per student count in kindergarten programs and grades one through eight and one thousand seven hundred eighteen dollars ten cents per student count in grades nine through twelve.

5. The state board of education shall apportion state aid from the appropriations made for such purposes to the state treasurer for disbursement to the charter schools in each county in an amount as determined by this paragraph. The apportionments shall be made in twelve equal installments of the total amount to be apportioned during the fiscal year on the fifteenth day of each month of the fiscal year.

~~6. Notwithstanding paragraph 5 of this subsection, if sufficient appropriated monies are available after the first forty days in session of the current year, a charter school may request additional state monies to~~

~~fund the increased state aid due to anticipated student growth through the first one hundred days or two hundred days in session, as applicable, of the current year as provided in section 15-948. In no event shall a charter school have received more than three-fourths of its total apportionment before April 15 of the fiscal year. Early payments pursuant to this subsection must be approved by the state treasurer, the director of the department of administration and the superintendent of public instruction.~~

~~7.~~ 6. The charter school shall not charge tuition, levy taxes or issue bonds.

~~8.~~ 7. Not later than noon on the day preceding each apportionment date established by paragraph 5 of this subsection, the superintendent of public instruction shall furnish to the state treasurer an abstract of the apportionment and shall certify the apportionment to the department of administration, which shall draw its warrant in favor of the charter schools for the amount apportioned.

C. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the sum of the daily membership, which includes enrollment as prescribed in section 15-901, subsection A, paragraph 2, subdivisions (a) and (b) and daily attendance as prescribed in section 15-901, subsection A, paragraph 6, for that pupil in the school district and the charter school shall not exceed 1.0, except that if the pupil is enrolled in both a charter school and a joint technological education district and resides within the boundaries of a school district participating in the joint technological education district, the sum of the average daily membership for that pupil in the charter school and the joint technological education district shall not exceed 1.25. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the department of education shall direct the average daily membership to the school with the most recent enrollment date. Upon validation of actual enrollment in both a charter school and a public school that is not a charter school and if the sum of the daily membership or daily attendance for that pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between the public school and the charter school based on the percentage of total time that the pupil is enrolled or in attendance in the public school and the charter school, except that if the pupil is enrolled in both a charter school and a joint technological education district and resides within the boundaries of a school district participating in the joint technological education district, the sum of the average daily membership for that pupil in the charter school and the joint technological education district shall be reduced to 1.25 and shall be apportioned between the charter school and the joint technological education district based on the percentage of total time that the pupil is enrolled or in attendance in the charter school and the joint technological education district. The uniform system of financial records shall include guidelines for the apportionment of the pupil enrollment and attendance as provided in this section.

D. Charter schools are allowed to accept grants and gifts to supplement their state funding, but it is not the intent of the charter school law to require taxpayers to pay twice to educate the same pupils. The base support level for a charter school or for a school district sponsoring a charter school shall be reduced by an amount equal to the total amount of monies received by a charter school from a federal or state agency if the federal or state monies are intended for the basic maintenance and operations of the school. The superintendent of public instruction shall estimate the amount of the reduction for the budget year and shall revise the reduction to reflect the actual amount before May 15 of the current year. If the reduction results in a negative amount, the negative amount shall be used in computing all budget limits and equalization assistance, except that:

1. Equalization assistance shall not be less than zero.

2. For a charter school sponsored by the state board of education or the state board for charter schools, the total of the base support level~~, the capital outlay revenue limit, the soft capital allocation~~ and the additional assistance shall not be less than zero.

3. For a charter school sponsored by a school district, the base support level for the school district shall not be reduced by more than the amount that the charter school increased the district's base support level, capital outlay revenue limit and soft capital allocation.

E. If a charter school was a district public school in the prior year and is now being operated for or by the same school district and sponsored by the state board of education, the state board for charter schools or a school district governing board, the reduction in subsection D of this section applies. The reduction to the base support level of the charter school or the sponsoring district of the charter school shall equal the sum of the base support level and the additional assistance received in the current year for those pupils who were enrolled in the traditional public school in the prior year and are now enrolled in the charter school in the current year.

F. Equalization assistance for charter schools shall be provided as a single amount based on average daily membership without categorical distinctions between maintenance and operations or capital.

G. At the request of a charter school, the county school superintendent of the county where the charter school is located may provide the same educational services to the charter school as prescribed in section 15-308, subsection A. The county school superintendent may charge a fee to recover costs for providing educational services to charter schools.

H. If the sponsor of the charter school determines at a public meeting that the charter school is not in compliance with federal law, with the laws of this state or with its charter, the sponsor of a charter school may submit a request to the department of education to withhold up to ten per cent of the monthly apportionment of state aid that would otherwise be due the charter school. The department of education shall adjust the charter school's apportionment accordingly. The sponsor shall provide written notice

1 to the charter school at least seventy-two hours before the meeting and shall
2 allow the charter school to respond to the allegations of noncompliance at
3 the meeting before the sponsor makes a final determination to notify the
4 department of education of noncompliance. The charter school shall submit a
5 corrective action plan to the sponsor on a date specified by the sponsor at
6 the meeting. The corrective action plan shall be designed to correct
7 deficiencies at the charter school and to ensure that the charter school
8 promptly returns to compliance. When the sponsor determines that the charter
9 school is in compliance, the department of education shall restore the full
10 amount of state aid payments to the charter school.
11 I. In addition to the withholding of state aid payments pursuant to
12 subsection H of this section, the sponsor of a charter school may impose a
13 civil penalty of one thousand dollars per occurrence if a charter school
14 fails to comply with the fingerprinting requirements prescribed in section
15 15-183, subsection C or section 15-512. The sponsor of a charter school
16 shall not impose a civil penalty if it is the first time that a charter
17 school is out of compliance with the fingerprinting requirements and if the
18 charter school provides proof within forty-eight hours of written
19 notification that an application for the appropriate fingerprint check has
20 been received by the department of public safety. The sponsor of the charter
21 school shall obtain proof that the charter school has been notified, and the
22 notification shall identify the date of the deadline and shall be signed by
23 both parties. The sponsor of a charter school shall automatically impose a
24 civil penalty of one thousand dollars per occurrence if the sponsor
25 determines that the charter school subsequently violates the fingerprinting
26 requirements. Civil penalties pursuant to this subsection shall be assessed
27 by requesting the department of education to reduce the amount of state aid
28 that the charter school would otherwise receive by an amount equal to the
29 civil penalty. The amount of state aid withheld shall revert to the state
30 general fund at the end of the fiscal year.
31 J. A charter school may receive and spend monies distributed by the
32 department of education pursuant to section 42-5029, subsection E and section
33 37-521, subsection B.
34 K. If a school district transports or contracts to transport pupils to
35 the Arizona state schools for the deaf and the blind during any fiscal year,
36 the school district may transport or contract with a charter school to
37 transport sensory impaired pupils during that same fiscal year to a charter
38 school if requested by the parent of the pupil and if the distance from the
39 pupil's place of actual residence within the school district to the charter
40 school is less than the distance from the pupil's place of actual residence
41 within the school district to the campus of the Arizona state schools for the
42 deaf and the blind.
43 L. For the purposes of this section:
44 1. "Monies intended for the basic maintenance and operations of the
45 school" means monies intended to provide support for the educational program

of the school, except that it does not include supplemental assistance for a specific purpose or ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies. The auditor general shall determine which federal or state monies meet the definition in this paragraph.

2. "Operated for or by the same school district" means the charter school is either governed by the same district governing board or operated by the district in the same manner as other traditional schools in the district or is operated by an independent party that has a contract with the school district. The auditor general and the department of education shall determine which charter schools meet the definition in this subsection.

Sec. 9. 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, 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

1 shall prepare a fiscal impact statement of any proposed changes to the
2 minimum course of study or competency requirements and, on completion, shall
3 send a copy to the director of the joint legislative budget committee and the
4 executive director of the school facilities board. The state board of
5 education shall not adopt any changes in the minimum course of study or
6 competency requirements in effect on July 1, 1998 that will have a fiscal
7 impact on school capital costs.
8 14. Supervise and control the certification of persons engaged in
9 instructional work directly as any classroom, laboratory or other teacher or
10 indirectly as a supervisory teacher, speech therapist, principal or
11 superintendent in a school district, including school district preschool
12 programs, or any other educational institution below the community college,
13 college or university level, and prescribe rules for certification, including
14 rules for certification of teachers who have teaching experience and who are
15 trained in other states, which are not unnecessarily restrictive and are
16 substantially similar to the rules prescribed for the certification of
17 teachers trained in this state. The rules shall require applicants for all
18 certificates for common school instruction to complete a minimum of
19 forty-five classroom hours or three college level credit hours, or the
20 equivalent, of training in research based systematic phonics instruction from
21 a public or private provider. The rules shall not require a teacher to
22 obtain a master's degree or to take any additional graduate courses as a
23 condition of certification or recertification. The rules shall allow a
24 general equivalency diploma to be substituted for a high school diploma in
25 the certification of emergency substitute teachers.
26 15. Adopt a list of approved tests for determining special education
27 assistance to gifted pupils as defined in and as provided in chapter 7,
28 article 4.1 of this title. The adopted tests shall provide separate scores
29 for quantitative reasoning, verbal reasoning and nonverbal reasoning and
30 shall be capable of providing reliable and valid scores at the highest ranges
31 of the score distribution.
32 16. Adopt rules governing the methods for the administration of all
33 proficiency examinations.
34 17. Adopt proficiency examinations for its use. The state board of
35 education shall determine the passing score for the proficiency examination.
36 18. Include within its budget the cost of contracting for the purchase,
37 distribution and scoring of the examinations as provided in paragraphs 16 and
38 17 of this subsection.
39 19. Supervise and control the qualifications of professional
40 nonteaching school personnel and prescribe standards relating to
41 qualifications.
42 20. Impose such disciplinary action, including the issuance of a letter
43 of censure, suspension, suspension with conditions or revocation of a
44 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.

28. Adopt rules that will be in effect until December 31, 2006 and 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 each of the following requirements:

(a) Is at least sixty-five years of age.

(b) Currently resides in this state.

(c) Provides documented evidence from the Arizona department of veterans' services that the person enlisted in the armed forces of the United States before completing high school in a public or private school.

(d) Was honorably discharged from service with the armed forces of the United States.

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 ~~6~~ 7 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 ~~7~~ 8 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.

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. 10. Section 15-238, Arizona Revised Statutes, is amended to read:

15-238. Statewide student estimate

Before February 15 of each year the department of education shall submit to the economic estimates commission the total estimated statewide number of students determined for the current year using the unit of measurement prescribed in section 15-902, ~~subsection~~ SUBSECTIONS A AND B.

Sec. 11. Title 15, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 15-241.01, to read:

15-241.01. School accountability; alternative operation plans

A. IF A SCHOOL DISTRICT HAS SIX OR MORE SCHOOLS AND AT LEAST ONE-HALF OF THE SCHOOLS IN THE DISTRICT ARE DESIGNATED AS UNDERPERFORMING OR FAILING TO MEET THE ACADEMIC STANDARDS PURSUANT TO THIS SECTION AND AT LEAST ONE SCHOOL IS DESIGNATED AS FAILING TO MEET ACADEMIC STANDARDS, THE DEPARTMENT OF EDUCATION MAY SUBMIT TO THE STATE BOARD OF EDUCATION A RECOMMENDATION FOR A PUBLIC HEARING TO DETERMINE IF THE SCHOOL DISTRICT SHOULD BE SUBJECT TO AN ALTERNATIVE OPERATION PLAN AND THE REASONS FOR THAT RECOMMENDATION. WHEN CONSIDERING WHETHER TO RECOMMEND A PUBLIC HEARING PURSUANT TO THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER AT LEAST THE FOLLOWING:

1. THE LIKELIHOOD THAT CONTINUED SCHOOL-BASED INTERVENTIONS WILL BE SUCCESSFUL.

2. THE EXTENT TO WHICH THE SCHOOL DISTRICT ADMINISTRATORS AND THE SCHOOL DISTRICT GOVERNING BOARD IMPACTED THE UNDERPERFORMING AND FAILING TO MEET ACADEMIC STANDARDS DESIGNATIONS OF THE DISTRICT'S SCHOOLS.

3. WHETHER THOSE SCHOOLS DESIGNATED AS UNDERPERFORMING OR FAILING TO MEET ACADEMIC STANDARDS HAVE DEMONSTRATED REASONABLE ACADEMIC GROWTH AS DETERMINED BY THE MEASURE OF ACADEMIC PROGRESS ESTABLISHED PURSUANT TO THIS SECTION.

B. IF THE DEPARTMENT OF EDUCATION RECOMMENDS A PUBLIC HEARING PURSUANT TO SUBSECTION A OF THIS SECTION, THE STATE BOARD OF EDUCATION SHALL MEET AND MAY PROVIDE BY A MAJORITY VOTE OF THE ENTIRE BOARD FOR THE DEVELOPMENT AND IMPLEMENTATION OF AN ALTERNATIVE OPERATION PLAN AS ALLOWED BY THIS SECTION. WHEN DETERMINING WHETHER TO PLACE A SCHOOL DISTRICT UNDER AN ALTERNATIVE OPERATION PLAN, THE STATE BOARD SHALL CONSIDER AT LEAST THE FOLLOWING:

1. THE LIKELIHOOD THAT CONTINUED SCHOOL-BASED INTERVENTIONS WILL BE SUCCESSFUL.

2. THE EXTENT TO WHICH THE SCHOOL DISTRICT ADMINISTRATORS AND THE SCHOOL DISTRICT GOVERNING BOARD IMPACTED THE UNDERPERFORMING AND FAILING TO MEET ACADEMIC STANDARDS DESIGNATIONS OF THE DISTRICT'S SCHOOLS.

3. WHETHER THOSE SCHOOLS DESIGNATED AS UNDERPERFORMING OR FAILING TO MEET ACADEMIC STANDARDS HAVE DEMONSTRATED REASONABLE ACADEMIC GROWTH AS DETERMINED BY THE MEASURE OF ACADEMIC PROGRESS ESTABLISHED PURSUANT TO THIS SECTION.

C. BEFORE A HEARING IS HELD PURSUANT TO SUBSECTION B OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL RECOMMEND TO THE STATE BOARD OF EDUCATION AT LEAST THREE GOVERNMENTAL, NONPROFIT OR PRIVATE ORGANIZATIONS OR PERSONS TO MANAGE THE SCHOOL DISTRICT'S AFFAIRS. IF THE STATE BOARD APPROVES THE IMPLEMENTATION OF AN ALTERNATIVE OPERATION PLAN, IT SHALL MAKE AN APPOINTMENT FROM THE LIST PROVIDED BY THE DEPARTMENT OF EDUCATION. ON MAKING THIS APPOINTMENT THE STATE BOARD SHALL IMMEDIATELY DETERMINE WHICH POWERS ENUMERATED IN SUBSECTION D OF THIS SECTION SHALL BE TEMPORARILY GRANTED TO THE APPOINTED ORGANIZATION OR PERSON. THE AUTHORITY GRANTED PURSUANT TO THIS SUBSECTION SHALL BE EFFECTIVE UNTIL THE STATE BOARD REVIEWS THE ALTERNATIVE OPERATION PLAN AS DESCRIBED IN SUBSECTION E OF THIS SECTION.

D. AN ORGANIZATION OR PERSON APPOINTED PURSUANT TO SUBSECTION C OF THIS SECTION SHALL BEGIN A FULL REVIEW AND INVESTIGATION OF THE SCHOOL DISTRICT'S EDUCATIONAL AFFAIRS AND SHALL SUBMIT TO THE STATE BOARD OF EDUCATION A DETAILED REPORT LISTING THE FINDINGS OF THAT INVESTIGATION. THIS REPORT SHALL INCLUDE AN ALTERNATIVE OPERATION PLAN THAT DETAILS HOW THE SCHOOL DISTRICT WILL RAISE THE LEVEL OF ACADEMIC ACHIEVEMENT SO THAT ALL OF THE SCHOOLS IN THE SCHOOL DISTRICT ARE DESIGNATED AS PERFORMING SCHOOLS, HIGHLY PERFORMING SCHOOLS OR EXCELLING SCHOOLS PURSUANT TO THIS SECTION. THE PLAN SHALL INCLUDE A PROPOSED TIMELINE FOR IMPROVING ACADEMIC ACHIEVEMENT. THE ALTERNATIVE OPERATION PLAN SHALL ALSO INCLUDE A TIMELINE AND DETAILS CONCERNING HOW THE ORGANIZATION OR PERSON WILL TRANSITION THE ADMINISTRATION OF THE SCHOOL DISTRICT BACK TO THE LOCALLY ELECTED GOVERNING BOARD. THE

ORGANIZATION OR PERSON SHALL SUBMIT THE REPORT WITHIN ONE HUNDRED TWENTY DAYS FROM THE DATE THE ORGANIZATION OR PERSON WAS APPOINTED BY THE STATE BOARD. IF APPROVED BY THE STATE BOARD, THE ALTERNATIVE OPERATION PLAN MAY AUTHORIZE THE APPOINTED ORGANIZATION OR PERSON TO DO ANY OF THE FOLLOWING:

1. OVERRIDE ANY DECISIONS OF THE SCHOOL DISTRICT GOVERNING BOARD OR THE SCHOOL DISTRICT SUPERINTENDENT, OR BOTH, CONCERNING THE MANAGEMENT AND OPERATION OF THE SCHOOL DISTRICT, AND INITIATE AND MAKE DECISIONS CONCERNING THE MANAGEMENT AND OPERATION OF THE SCHOOL DISTRICT, INCLUDING REOPENING THE SCHOOL AS A CHARTER SCHOOL.

2. HIRE PERSONNEL, TERMINATE PERSONNEL AND CANCEL EXISTING EMPLOYMENT CONTRACTS, INCLUDING THE DISTRICT SUPERINTENDENT, TO THE EXTENT PERMITTED BY LAW. THE APPOINTED ORGANIZATION OR PERSON MAY REFUSE TO REEMPLOY ANY CERTIFICATED TEACHER WHO HAS NOT BEEN EMPLOYED BY THE SCHOOL DISTRICT FOR MORE THAN THE MAJOR PORTION OF THREE CONSECUTIVE SCHOOL YEARS AS PROVIDED IN SECTION 15-536.

3. ATTEND ANY MEETINGS OF THE SCHOOL DISTRICT GOVERNING BOARD AND ADMINISTRATIVE STAFF.

4. SUPERVISE THE ACTIVITIES OF THE SCHOOL DISTRICT'S STAFF, INCLUDING REASSIGNING THE DUTIES AND RESPONSIBILITIES OF PERSONNEL IN A MANNER THAT, AS DETERMINED BY THE APPOINTED ORGANIZATION OR PERSON, BEST SUITS THE NEEDS OF THE SCHOOL DISTRICT.

5. TO THE EXTENT PERMITTED BY LAW, CANCEL OR RENEGOTIATE ANY CONTRACT, OTHER THAN CONTRACTS OF CERTIFICATED TEACHERS WHO HAVE BEEN EMPLOYED BY THE SCHOOL DISTRICT IN THE CAPACITY OF A CERTIFICATED TEACHER FOR MORE THAN ONE YEAR, TO WHICH THE GOVERNING BOARD OR THE SCHOOL DISTRICT IS A PARTY IF THE CANCELLATION OR RENEGOTIATION OF THE CONTRACT WILL PRODUCE NEEDED ECONOMIES IN THE OPERATION OF THE DISTRICT'S SCHOOLS.

E. THE STATE BOARD OF EDUCATION SHALL PERIODICALLY REVIEW THE STATUS OF A SCHOOL DISTRICT THAT IS OPERATING UNDER AN ALTERNATIVE OPERATION PLAN PURSUANT TO THIS SECTION TO DETERMINE WHETHER THE OPERATIONS OF THE SCHOOL DISTRICT SHOULD BE RETURNED TO THE SCHOOL DISTRICT GOVERNING BOARD. BEFORE THE STATE BOARD MAKES A DETERMINATION TO TERMINATE AN ALTERNATIVE OPERATION PLAN, THE STATE BOARD OR ITS DESIGNEE SHALL MEET WITH THE SCHOOL DISTRICT GOVERNING BOARD OR ITS DESIGNEE TO ESTABLISH AN APPROPRIATE TIME FRAME AND ADDRESS ANY ADDITIONAL OPERATIONAL CONSIDERATIONS THAT ARE NECESSARY TO ENSURE A SMOOTH TRANSITION OF AUTHORITY FROM THE APPOINTED ORGANIZATION OR PERSON BACK TO THE SCHOOL DISTRICT GOVERNING BOARD. WHEN DETERMINING WHETHER TO TERMINATE AN ALTERNATIVE OPERATION PLAN, THE STATE BOARD SHALL CONSIDER WHETHER THE DISTRICT'S SCHOOLS HAVE MADE SIGNIFICANT ACADEMIC GAINS AS DETERMINED BY INDIVIDUAL SCHOOL ACHIEVEMENT PROFILES ESTABLISHED PURSUANT TO THIS SECTION.

F. IF AT ANY TIME THE STATE BOARD DETERMINES THAT THE PROGRESS OF AN ORGANIZATION OR PERSON WHO IS APPOINTED PURSUANT TO THIS SUBSECTION OR SUBSECTION C OF THIS SECTION IS INSUFFICIENT, THE STATE BOARD MAY REMOVE THAT ORGANIZATION OR PERSON AND MAKE AN ALTERNATIVE APPOINTMENT. ALL AUTHORITY

GRANTED PURSUANT TO THE APPROVED ALTERNATIVE OPERATION PLAN SHALL BE TRANSFERRED TO THE NEWLY APPOINTED ORGANIZATION OR PERSON. THE STATE BOARD MAY REQUIRE THE NEWLY APPOINTED ORGANIZATION OR PERSON TO PREPARE A REVISED ALTERNATIVE OPERATION PLAN AS DESCRIBED IN SUBSECTION D OF THIS SECTION.

G. ALL EXPENSES AND COSTS OF AN ORGANIZATION OR PERSON APPOINTED BY THE STATE BOARD PURSUANT TO SUBSECTION C OR F OF THIS SECTION SHALL BE PAID BY THE SCHOOL DISTRICT. THE STATE BOARD OF EDUCATION SHALL REVIEW THE EXPENSES AND COSTS AT LEAST TWICE EACH CALENDAR YEAR TO ENSURE THAT THE FEES ARE REASONABLE AND APPROPRIATE.

H. THE OPERATION OF A SCHOOL DISTRICT BY AN ORGANIZATION OR PERSON APPOINTED PURSUANT TO THIS SECTION SHALL NOT INTERFERE WITH THE ELECTION OF SCHOOL DISTRICT GOVERNING BOARD MEMBERS.

I. THE SCHOOL DISTRICT SHALL INDEMNIFY THE ORGANIZATION OR PERSON APPOINTED PURSUANT TO SUBSECTION C OR F OF THIS SECTION IF THAT ORGANIZATION OR PERSON IS MADE OR THREATENED TO BE MADE A PARTY TO ANY LITIGATION BY REASON OF THE ORGANIZATION'S OR PERSON'S STATUS UNDER THIS SECTION IF THE ORGANIZATION OR PERSON ACTED IN GOOD FAITH AND IN A MANNER THE ORGANIZATION OR PERSON BELIEVED TO BE LAWFUL AND IN THE BEST INTEREST OF THE SCHOOL DISTRICT.

J. ALL INFORMATION RECEIVED AND RECORDS OR REPORTS KEPT BY THE STATE BOARD OF EDUCATION DURING AN INVESTIGATION RESULTING FROM A COMPLAINT AGAINST AN ORGANIZATION OR PERSON APPOINTED PURSUANT TO SUBSECTION C OR F OF THIS SECTION ARE CONFIDENTIAL AND ARE NOT PUBLIC RECORDS.

Sec. 12. Title 15, chapter 2, article 2, Arizona Revised Statutes, is amended by adding sections 15-248 and 15-248.01, to read:

15-248. <u>Arizona national rankings; annual report</u>

A. THE DEPARTMENT OF EDUCATION SHALL COLLECT, EVALUATE AND ASSESS EXISTING STUDIES AND FINDINGS CONDUCTED BY ANY PUBLIC OR PRIVATE ENTITY ON THE NATIONAL RANKINGS AND OVERALL QUALITY OF SCHOOLS IN THIS STATE BASED ON THE FOLLOWING:

1. ACADEMIC PRODUCTIVITY AS MEASURED BY ACADEMIC PROGRESS INDICATORS. THE ACADEMIC PRODUCTIVITY MEASURES SHALL INCLUDE THE AREAS OF READING, WRITING AND MATHEMATICS AND OTHER ACADEMIC CATEGORIES DETERMINED BY THE DEPARTMENT.

2. RATINGS OF SCHOOL QUALITY BY PARENTS.

B. THE DEPARTMENT MAY FURTHER EVALUATE, BUT IS NOT LIMITED TO, THE FOLLOWING SCHOOL FUNDING ISSUES:

1. THE AVERAGE SALARIES OF TEACHERS WHO PROVIDE INSTRUCTION IN SCHOOL DISTRICTS IN THIS STATE COMPARED TO THE AVERAGE SALARIES OF TEACHERS WITH SIMILAR LEVELS OF EXPERIENCE AND EDUCATION IN OTHER STATES.

2. OTHER FUNDING CATEGORIES DETERMINED BY THE DEPARTMENT.

C. FOR THE PURPOSES OF THIS SECTION, STUDIES AND FINDINGS THAT ARE EVALUATED BY THE DEPARTMENT MAY BE CONDUCTED BY ANY PUBLIC OR PRIVATE ENTITY, EXCEPT THAT THE DEPARTMENT SHALL RELY ONLY ON RESEARCH IT DETERMINES IS SCIENTIFICALLY RELIABLE. THE DEPARTMENT MAY REQUEST THAT ADDITIONAL

SPECIALIZED RESEARCH BE CONDUCTED BY PUBLIC OR PRIVATE ENTITIES SELECTED BY THE DEPARTMENT.

D. THE DEPARTMENT SHALL SEARCH SCIENTIFIC LITERATURE AND SELECT A NATIONAL RANKING STUDY OF THE PERFORMANCE OF EACH STATE'S SCHOOLS THAT USED THE MOST SCIENTIFICALLY SOUND METHODOLOGY IN THE RANKING PROCESS. THE DEPARTMENT SHALL IDENTIFY ALL THE DATA ELEMENTS USED IN THE STUDY AND SHALL DUPLICATE THOSE DATA ELEMENTS USING THE MOST RECENT AVAILABLE DATA. THE DEPARTMENT SHALL ATTEMPT TO IDENTIFY THE CHARACTERISTICS OF THE TOP TEN RANKED STATES AND THE BOTTOM TEN RANKED STATES IN ALL AREAS THAT IMPACT THE QUALITY OF EDUCATION.

E. THE DEPARTMENT SHALL SUBMIT ELECTRONICALLY AN ANNUAL REPORT ON OR BEFORE DECEMBER 1 REGARDING ITS FINDINGS TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE. THE DEPARTMENT SHALL PROVIDE COPIES OF THIS REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE DEPARTMENT SHALL PRESENT ITS FINDINGS AT A PUBLIC MEETING FOR DISCUSSION AND ANALYSIS.

15-248.01. Task force for measuring academic gains of K-3 pupils

A. THE TASK FORCE FOR MEASURING ACADEMIC GAINS OF K-3 PUPILS IS ESTABLISHED IN THE DEPARTMENT OF EDUCATION CONSISTING OF AT LEAST SEVEN REPRESENTATIVES FROM THE PARTICIPATING SCHOOLS SELECTED BY THE DEPARTMENT.

B. SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF EDUCATION, THE TASK FORCE SHALL DEVELOP MEASURES AND TASKS ASSOCIATED WITH MEASURING ACADEMIC GAINS IN MATHEMATICS, READING AND LANGUAGE OF PUPILS IN KINDERGARTEN PROGRAMS, GRADE ONE, GRADE TWO AND GRADE THREE WITH A GOAL OF REACHING READING PROFICIENCY BY THE END OF GRADE THREE.

C. SCHOOL DISTRICTS AND CHARTER SCHOOLS MAY VOLUNTARILY PARTICIPATE IN THE MEASUREMENT OF ACADEMIC GAINS DEVELOPED BY THE TASK FORCE PURSUANT TO THIS SECTION.

D. THE DEPARTMENT OF EDUCATION SHALL DEVELOP MECHANISMS TO ALLOW A SCHOOL DISTRICT OR CHARTER SCHOOL THAT VOLUNTARILY PARTICIPATES IN THE MEASUREMENT OF ACADEMIC GAINS DEVELOPED BY THE TASK FORCE PURSUANT TO THIS SECTION TO IMPROVE ITS SCHOOL CLASSIFICATION DESIGNATED PURSUANT TO SECTION 15-241 IF THE SCHOOL DISTRICT'S OR CHARTER SCHOOL'S ACADEMIC GAINS MEET THE CRITERIA DEVELOPED BY THE DEPARTMENT OF EDUCATION AND APPROVED BY THE STATE BOARD OF EDUCATION. THE STATE BOARD OF EDUCATION SHALL REVIEW AND APPROVE THE MECHANISMS DEVELOPED BY THE DEPARTMENT OF EDUCATION.

E. THE DEPARTMENT OF EDUCATION SHALL ESTABLISH PROCEDURES TO MAINTAIN THE INTEGRITY OF THE TESTING PROCESS THAT WILL BE USED TO MEASURE ACADEMIC GAINS DEVELOPED BY THE TASK FORCE PURSUANT TO THIS SECTION, INCLUDING PROCEDURES FOR TESTING AND SCORING VALIDITY AND RELIABILITY. THE STATE BOARD OF EDUCATION SHALL REVIEW AND APPROVE THE TESTING PROCESS DEVELOPED BY THE TASK FORCE.

Sec. 13. Title 15, chapter 2, article 3, Arizona Revised Statutes, is amended by adding section 15-257, to read:

15-257. Employee evaluation system

NOTWITHSTANDING SECTION 38-618.01, THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY ESTABLISH A SYSTEM TO EVALUATE THE PERFORMANCE OF EMPLOYEES OF THE DEPARTMENT OF EDUCATION.

Sec. 14. Section 15-302, Arizona Revised Statutes, is amended to read:

15-302. Powers and duties

A. The county school superintendent shall:

1. Distribute all laws, reports, circulars, instructions and forms ~~which~~ THAT he may receive for the use of school officers.

2. Record all official acts.

3. Appoint governing board members of school districts to fill all vacancies, but the term of the appointment shall be until the next regular election for governing board members, at which time a successor shall be elected to serve the unexpired portion of the term. WITHIN THIRTY DAYS AFTER NOTIFICATION OF A VACANCY, THE SCHOOL DISTRICT GOVERNING BOARD MAY SUBMIT UP TO THREE NAMES TO THE COUNTY SCHOOL SUPERINTENDENT FOR CONSIDERATION OF AN APPOINTMENT TO FILL THE VACANCY. THE COUNTY SCHOOL SUPERINTENDENT IS NOT REQUIRED TO APPOINT A GOVERNING BOARD MEMBER FROM THE LIST OF NAMES SUBMITTED BY THE GOVERNING BOARD. The county school superintendent ~~may~~, if he deems it in the best interest of the community, MAY call a special election to fill the vacancies. If an election is called, the newly elected member shall serve for the remainder of the unexpired portion of the term.

4. Make reports, when directed by the superintendent of public instruction, showing matters relating to schools in his county as may be required on the forms furnished by the superintendent of public instruction.

5. Have such powers and perform such duties as otherwise prescribed by law.

6. On or before October 1 of each year, make a report to the superintendent of public instruction showing the amount of monies received from state school funds, special school district taxes and other sources, the total expenditures for school purposes and the balance on hand to the credit of each school district at the close of the school year.

7. Contract with the board of supervisors for the board of supervisors to conduct all regular school district elections.

8. Be responsible, in cooperation with the governing boards and the board of supervisors, for all special school district elections.

9. Maintain teacher and administrator certification records of effective dates and expiration dates of teachers' and administrators' certificates in compliance with guidelines prescribed in the uniform system of financial records for those school districts for which the county school superintendent is the fiscal agent. The county school superintendent shall not draw a warrant in payment of a teacher's, substitute teacher's or administrator's salary unless the teacher, substitute teacher or

administrator is legally certified during the fiscal year in which the term for payment is demanded.

10. Notify a school district three years before the expiration of a revenue control limit override that the school district's budget must be adjusted in the final two years of the override pursuant to section 15-481, subsections P and Q, if the voters do not approve another override.

11. In collaboration with the department of education and other state agencies, provide assistance to school districts and charter schools on the use of student data, staff development, curriculum alignment and technology to improve student performance.

12. Assist schools in meeting yearly adequate progress goals as defined by criteria established by the state board of education and implemented by the department of education.

B. At the request of school districts and charter schools, the county school superintendent may provide discretionary programs in addition to the programs prescribed in subsection A OF THIS SECTION.

C. The county school superintendent may provide the services prescribed in subsections A and B OF THIS SECTION in the county or jointly with two or more counties pursuant to title 11, chapter 7, article 3.

D. Each county school superintendent may establish an advisory committee to the office of the county school superintendent.

Sec. 15. Section 15-321, Arizona Revised Statutes, is amended to read:

15-321. <u>Organization; election of officers of the board; meetings; execution of warrants; exemption</u>

A. For the purpose of organization of the governing board, the board shall meet at the most convenient public facility in the school district. If a public facility is not available within the district, the governing board may meet at any available public facility that is convenient to all governing board members, regardless of the county or school district in which the facility is located. The governing board shall meet between January 1 and January 15 next following the election.

B. At the organization meeting the governing board shall elect from among the membership of the board a president.

C. For the purposes of regular meetings of the governing board, the board shall meet at the most convenient public facility in the school district. If a public facility is not available within the district, the governing board may meet at any available public facility that is convenient to all governing board members, regardless of the county or school district in which the facility is located.

D. The board shall prescribe rules for its own government. It shall hold a regular meeting at least once each month during the regular school year and may hold other meetings as often as called. If action has been taken and documents approved at a meeting, they may be signed subsequently by individual board members.

E. Business shall be conducted at regular or special meetings. Notice of a special meeting, and of the hour for a regular meeting if no hour is fixed by a rule of the board, shall be delivered personally or by telephone.

~~F. A majority of the members of a governing board constitutes a quorum for the transaction of business.~~

F. NOTWITHSTANDING SECTION 1-216, IF THERE IS A VACANCY OR VACANCIES ON THE GOVERNING BOARD, A MAJORITY OF THE REMAINING MEMBERS OF THE GOVERNING BOARD CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, EXCEPT THAT A SINGLE MEMBER OF THE GOVERNING BOARD DOES NOT CONSTITUTE A QUORUM.

G. An order on a county school superintendent for a salary or other expense shall be signed by ~~a majority of~~ the governing board. An order for salary or other expense may be signed between board meetings if a resolution to that effect has been passed prior to the signing at a regular or special meeting of the governing board and the order is ratified by the board at the next regular or special meeting of the governing board.

H. This section does not apply to county school superintendents in the conduct of an accommodation school.

Sec. 16. Section 15-341, Arizona Revised Statutes, is amended to read:

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools, not inconsistent with law or rules prescribed by the state board of education.

2. Maintain the schools established by it for the attendance of each pupil for a period of not less than one hundred seventy-five school days or two hundred school days, as applicable, or its equivalent as approved by the superintendent of public instruction for a school district operating on a year-round operation basis, to offer an educational program on the basis of a four day school week or to offer an alternative kindergarten program on the basis of a three day school week, in each school year, and if the funds of the district are sufficient, for a longer period, and as far as practicable with equal rights and privileges.

3. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character.

4. Manage and control the school property within its district.

5. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.

6. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.

7. Furnish, repair and insure, at full insurable value, the school property of the district.

8. Construct school buildings on approval by a vote of the district electors.

9. Make in the name of the district conveyances of property belonging to the district and sold by the board.

10. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

11. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

12. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

13. Hold pupils to strict account for disorderly conduct on school property.

14. Discipline students for disorderly conduct on the way to and from school.

15. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

16. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in section 15-521, paragraph ~~3~~ 2, the parent or legal guardian may request in writing that the governing board review the teacher's decision. Nothing in this paragraph shall be construed to release school districts from any liability relating to a child's promotion or retention.

17. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

18. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

19. Make an annual report to the county school superintendent on or before October 1 ~~each year~~ in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

20. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 21 of this subsection and sections

15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

21. Establish a bank account in which the board during a month may deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank account at least monthly to the county treasurer for deposit as provided in paragraph 20 of this subsection and in accordance with the uniform system of financial records.

22. Employ an attorney admitted to practice in this state whose principal practice is in the area of commercial real estate, or a real estate broker who is licensed by this state and who is employed by a reputable commercial real estate company, to negotiate a lease of five or more years for the school district if the governing board decides to enter into a lease of five or more years as lessor of school buildings or grounds as provided in section 15-342, paragraph 7 or 10. Any lease of five or more years negotiated pursuant to this paragraph shall provide that the lessee is responsible for payment of property taxes pursuant to the requirements of section 42-11104.

23. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct that is a violation of the policies of the governing board but that is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

24. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct that is a violation of the policies of the governing board regarding duties of administrators but that is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters. For violations that are cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

25. Notwithstanding section 13-3108, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on

1 school grounds unless the person is a peace officer or has obtained specific
2 authorization from the school administrator.
3 26. Prescribe and enforce policies and procedures relating to the
4 health and safety of all pupils participating in district sponsored practice
5 sessions, games or other interscholastic athletic activities, including the
6 provision of water.
7 27. Prescribe and enforce policies and procedures regarding the smoking
8 of tobacco within school buildings. The policies and procedures shall be
9 adopted in consultation with school district personnel and members of the
10 community and shall state whether smoking is prohibited in school buildings.
11 If smoking in school buildings is not prohibited, the policies and procedures
12 shall clearly state the conditions and circumstances under which smoking is
13 permitted, those areas in a school building that may be designated as smoking
14 areas and those areas in a school building that may not be designated as
15 smoking areas.
16 28. Establish an assessment, data gathering and reporting system as
17 prescribed in chapter 7, article 3 of this title.
18 29. Provide special education programs and related services pursuant to
19 section 15-764, subsection A to all children with disabilities as defined in
20 section 15-761.
21 30. Administer competency tests prescribed by the state board of
22 education for the graduation of pupils from high school.
23 31. Secure insurance coverage for all construction projects for
24 purposes of general liability, property damage and workers' compensation and
25 secure performance and payment bonds for all construction projects.
26 32. Keep on file the resumes of all current and former employees who
27 provide instruction to pupils at a school. Resumes shall include an
28 individual's educational and teaching background and experience in a
29 particular academic content subject area. A school district shall inform
30 parents and guardians of the availability of the resume information and shall
31 make the resume information available for inspection on request of parents
32 and guardians of pupils enrolled at a school. Nothing in this paragraph
33 shall be construed to require any school to release personally identifiable
34 information in relation to any teacher or employee, including the teacher's
35 or employee's address, salary, social security number or telephone number.
36 33. Report to local law enforcement agencies any suspected crime
37 against a person or property that is a serious offense as defined in section
38 13-706 or that involves a deadly weapon or dangerous instrument or serious
39 physical injury and any conduct that poses a threat of death or serious
40 physical injury to employees, students or anyone on the property of the
41 school. This paragraph does not limit or preclude the reporting by a school
42 district or an employee of a school district of suspected crimes other than
43 those required to be reported by this paragraph. For the purposes of this
44 paragraph, "dangerous instrument", "deadly weapon" and "serious physical
45 injury" have the same meanings prescribed in section 13-105.

34. In conjunction with local law enforcement agencies and local medical facilities, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

35. Annually assign at least one school district employee to participate in a multihazard crisis training program developed or selected by the governing board.

36. Provide written notice to the parents or guardians of all students affected in the school district at least thirty days prior to a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure no less than thirty days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from this paragraph if it is determined by the governing board that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school.

37. Incorporate instruction on Native American history into appropriate existing curricula.

38. Prescribe and enforce policies and procedures allowing pupils who have been diagnosed with anaphylaxis by a health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse practitioner licensed and certified pursuant to title 32, chapter 15 to carry and self-administer emergency medications, including auto-injectable epinephrine, while at school and at school sponsored activities. The pupil's name on the prescription label on the medication container or on the medication device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration is sufficient proof that the pupil is entitled to the possession and self-administration of the medication. The policies shall require a pupil who uses auto-injectable epinephrine while at school and at school sponsored activities to notify the nurse or the designated school staff person of the use of the medication as soon as practicable. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of wanton or wilful neglect.

39. Allow the possession and self-administration of prescription medication for breathing disorders in handheld inhaler devices by pupils who have been prescribed that medication by a health care professional licensed pursuant to title 32. The pupil's name on the prescription label on the medication container or on the handheld inhaler device and annual written

1 documentation from the pupil's parent or guardian to the school that
2 authorizes possession and self-administration shall be sufficient proof that
3 the pupil is entitled to the possession and self-administration of the
4 medication. A school district and its employees are immune from civil
5 liability with respect to all decisions made and actions taken that are based
6 on a good faith implementation of the requirements of this paragraph.
7 40. Prescribe and enforce policies and procedures to prohibit pupils
8 from harassing, intimidating and bullying other pupils on school grounds, on
9 school property, on school buses, at school bus stops and at school sponsored
10 events and activities that include the following components:
11 (a) A procedure for pupils to confidentially report to school
12 officials incidents of harassment, intimidation or bullying.
13 (b) A procedure for parents and guardians of pupils to submit written
14 reports to school officials of suspected incidents of harassment,
15 intimidation or bullying.
16 (c) A requirement that school district employees report suspected
17 incidents of harassment, intimidation or bullying to the appropriate school
18 official.
19 (d) A formal process for the documentation of reported incidents of
20 harassment, intimidation or bullying, except that no documentation shall be
21 maintained unless the harassment, intimidation or bullying has been proven.
22 (e) A formal process for the investigation by the appropriate school
23 officials of suspected incidents of harassment, intimidation or bullying.
24 (f) Disciplinary procedures for pupils who have admitted or been found
25 to have committed incidents of harassment, intimidation or bullying.
26 (g) A procedure that sets forth consequences for submitting false
27 reports of incidents of harassment, intimidation or bullying.
28 41. Prescribe and enforce policies and procedures regarding changing or
29 adopting attendance boundaries that include the following components:
30 (a) A procedure for holding public meetings to discuss attendance
31 boundary changes or adoptions that allows public comments.
32 (b) A procedure to notify the parents or guardians of the students
33 affected.
34 (c) A procedure to notify the residents of the households affected by
35 the attendance boundary changes.
36 (d) A process for placing public meeting notices and proposed maps on
37 the school district's website for public review, if the school district
38 maintains a website.
39 (e) A formal process for presenting the attendance boundaries of the
40 affected area in public meetings that allows public comments.
41 (f) A formal process for notifying the residents and parents or
42 guardians of the affected area as to the decision of the governing board on
43 the school district's website, if the school district maintains a website.
44 (g) A formal process for updating attendance boundaries on the school
45 district's website within ninety days of an adopted boundary change. The

1 school district shall send a direct link to the school district's attendance
2 boundaries website to the department of real estate.
3 (h) If the land that a school was built on was donated within the past
4 five years, a formal process to notify the entity that donated the land
5 affected by the decision of the governing board.
6 42. If the state board of education determines that the school district
7 has committed an overexpenditure as defined in section 15-107, provide a copy
8 of the fiscal management report submitted pursuant to section 15-107,
9 subsection H on its website and make copies available to the public on
10 request. The school district shall comply with a request within five
11 business days after receipt.
12 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this
13 section, the county school superintendent may construct, improve and furnish
14 school buildings or purchase or sell school sites in the conduct of an
15 accommodation school.
16 C. If any school district acquires real or personal property, whether
17 by purchase, exchange, condemnation, gift or otherwise, the governing board
18 shall pay to the county treasurer any taxes on the property that were unpaid
19 as of the date of acquisition, including penalties and interest. The lien
20 for unpaid delinquent taxes, penalties and interest on property acquired by a
21 school district:
22 1. Is not abated, extinguished, discharged or merged in the title to
23 the property.
24 2. Is enforceable in the same manner as other delinquent tax liens.
25 D. The governing board may not locate a school on property that is
26 less than one-fourth mile from agricultural land regulated pursuant to
27 section 3-365, except that the owner of the agricultural land may agree to
28 comply with the buffer zone requirements of section 3-365. If the owner
29 agrees in writing to comply with the buffer zone requirements and records the
30 agreement in the office of the county recorder as a restrictive covenant
31 running with the title to the land, the school district may locate a school
32 within the affected buffer zone. The agreement may include any stipulations
33 regarding the school, including conditions for future expansion of the school
34 and changes in the operational status of the school that will result in a
35 breach of the agreement.
36 E. A school district, its governing board members, its school council
37 members and its employees are immune from civil liability for the
38 consequences of adoption and implementation of policies and procedures
39 pursuant to subsection A of this section and section 15-342. This waiver
40 does not apply if the school district, its governing board members, its
41 school council members or its employees are guilty of gross negligence or
42 intentional misconduct.
43 F. A governing board may delegate in writing to a superintendent,
44 principal or head teacher the authority to prescribe procedures that are
45 consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in ~~an immediate reduction or~~ a reduction ~~within three years~~ of pupil square footage ~~that would cause the school district to fall below the minimum adequate gross square footage requirements prescribed in section 15-2011, subsection C,~~ unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in ~~an immediate reduction or~~ a reduction ~~within three years~~ that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district capital outlay revenue limit monies pursuant to the direction of the school facilities board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

I. Until the state board of education and the auditor general adopt rules pursuant to section 15-213, subsection I, a school district may procure construction services, including services for new school construction pursuant to section 15-2041, by the construction-manager-at-risk, design-build and job-order-contracting methods of project delivery as provided in title 41, chapter 23, except that the rules adopted by the director of the department of administration do not apply to procurements pursuant to this subsection. Any procurement commenced pursuant to this subsection may be completed pursuant to this subsection.

Sec. 17. Section 15-382, Arizona Revised Statutes, is amended to read:

15-382. <u>Authorization to self-insure; pooling agreements; joint agreements; trustees; liability coverage and pool requirements; remedies; definition</u>

A. The school district governing board may determine that self-insurance is necessary or desirable in the best interest of the district and may provide for a self-insurance program or programs for the district including risk management consultation. Any risk management consultant or insurance administrator employed by a school district governing board must be licensed under title 20, chapter 2, article 3 or 9, and such license shall be verified by the school district governing board prior to employment.

B. The school district governing board may:

1. Enter into intergovernmental agreements or contracts with pools operated pursuant to section 11-952.01 for participation in programs offered by public agency pools. In addition to the joint purchasing of insurance or reinsurance or the pooling of the retention of risks for property, fidelity and liability losses, these programs may include the joint purchasing of health benefits plan, life or disability insurance, prepaid legal insurance or the pooling of the retention of their risks of losses for health, accident, life or disability claims or the provision of the health and medical services enumerated in section 36-2907.

2. Separately contract with a trustee or board of trustees that provides a common self-insurance program or programs with pooled funds and risks to more than one district, a community college district formed pursuant to ~~title 15,~~ chapter 12~~, article 3~~ OF THIS TITLE or an association of school districts within this state that is funded by member school districts pursuant to section 15-342, paragraph 8 OR A POOL CREATED FOR AND OPERATED SOLELY FOR CHARTER SCHOOLS PURSUANT TO SECTION 11-952.01. BEGINNING JANUARY 1, 2010, A TRUSTEE, BOARD OF TRUSTEES OR POOL THAT CONTRACTS WITH A SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL PURSUANT TO THIS PARAGRAPH SHALL COMPLY WITH TITLE 38, CHAPTER 3, ARTICLE 3.1, TITLE 39, CHAPTER 1 AND SECTION 11-952.01, SUBSECTIONS M AND N.

3. Enter into cooperative procurement agreements with other districts pursuant to rules adopted pursuant to section 15-213 to participate in programs for either self-insurance or the joint purchase of insurance.

4. Separately establish a self-insurance program solely for its district.

C. If the school district governing board, either alone or in combination with another school district or an association of school districts in this state that is funded by member school districts pursuant to section 15-342, paragraph 8, establishes a self-insurance program, the governing board or an association of school districts shall place all funds into a trust to be used for payment of uninsured losses, claims, defense costs, costs of training designed to reduce losses and claims, the cost of related employee benefits including wellness programs, life, disability and other fully and partially insured group insurance plans, programs that allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986, costs of administration and other related expenses. If a member of the governing board or employee of the school district is acting as a trustee, the trust shall be administered by at least five joint trustees, of whom no more than one may be a member of the governing board and no more than one may be an employee of the school district. Funds budgeted for self-insurance programs shall be subject to district budgetary requirements, including but not limited to the requirements that the funds be budgeted within the maintenance and operation section and the budget limitation on increases as prescribed in section 15-905. The funds, upon being placed in the trust, shall not lapse at the

close of the fiscal year, except that any cash balance remaining after termination of the program and settlement of all outstanding claims shall be used for reduction of school district taxes for the budget year. The trustees of the trust must be bonded, a stop-loss provision must be incorporated in the trust agreement, and an annual audit must be performed by a certified public accountant and a copy of the report kept on file in the district office for a period of not less than five years.

D. If the self-insurance is for liability losses, excess liability coverage or reinsurance must be obtained as follows:

1. For a single school district, the coverage may include an annual aggregate limit of no more than three million dollars and the maximum retention per occurrence shall be one-half of one per cent of the district's maintenance and operation budget.

2. For a pool, the coverage may include an annual aggregate limit set by the pool and the maximum retention per occurrence shall not exceed one-half of one per cent of the combined maintenance and operation budgets of the districts in the pool.

E. "Self-insurance program" as used in this section means programs established and wholly or partially funded by the school district governing board. Self-insurance programs shall not include a decision by the governing board not to carry insurance upon a particular risk or risks.

Sec. 18. Repeal

Section 15-509, Arizona Revised Statutes, is repealed.

Sec. 19. Section 15-521, Arizona Revised Statutes, is amended to read:

15-521. Duties of teachers

Every teacher shall:

1. Hold pupils to strict account for disorderly conduct.

~~2. Keep a school register, which the governing board shall carefully preserve as one of the records of the school.~~

2. TAKE AND MAINTAIN DAILY CLASSROOM ATTENDANCE.

3. Make the decision to promote or retain a pupil in grade in a common school or to pass or fail a pupil in a course in high school. Such decisions may be overturned only as provided in section 15-342, paragraph 11.

4. Comply with all rules and policies of the governing board that relate to the duties prescribed in this section.

Sec. 20. Section 15-532, Arizona Revised Statutes, is amended to read:

15-532. Examination on state and United States constitutions; exemption; intergovernmental agreement or contract for administration and evaluation

A. A person applying for a certificate authorizing the person to become superintendent, principal or teacher in a school ~~shall~~, in addition to fingerprinting and other requirements, SHALL either complete the required classes or pass a satisfactory examination ~~upon~~ ON the provisions and principles of the Constitutions of the United States and Arizona.

B. A person who has not met the requirements of this section at the time application is made but who has met all other requirements shall be granted a certificate for not more than three years, except that a person who has not met the requirements of this section but who has met all other requirements and who applies for a certificate authorizing the person to teach an academic course that focuses predominantly on history, government, social studies, citizenship, law or civics shall be granted a certificate for not more than one year. No additional certificate may be granted until all requirements have been fulfilled as provided by the regulations of the state board of education governing certification of teachers.

C. A noncertified person, qualified under the federal and state plans for vocational education, shall be exempt from ~~the provisions of~~ this section for the purpose of acting as an instructor for special adult and evening classes.

D. The state board of education may enter into intergovernmental agreements or contracts pursuant to title 11, chapter 7, article 3 for the administration and evaluation of the examination on the provisions and principles of the Constitutions of the United States and Arizona. Notwithstanding section 15-531, the intergovernmental agreement or contract shall specify the fee for the administration and evaluation of the examination and may provide for the retention of all or part of the monies by the contractor administering and evaluating the examination.

E. A university under the jurisdiction of the Arizona board of regents shall ~~administer~~ OFFER the ~~examination~~ CLASSES required by this section to students who are pursuing a bachelor of arts degree in education or a bachelor of science degree in education at that university.

Sec. 21. Section 15-534, Arizona Revised Statutes, is amended to read:

15-534. Fingerprinting; review and disciplinary action; violation; classification

A. A person who applies for a certificate as prescribed in section 15-203 shall have a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1. Applicants who possess a certificate pursuant to section 15-203 and who apply for additional certificates or who apply for renewal of any certificate shall meet one of the following requirements:

1. Have a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.

2. Provide proof of the submission of an application for a fingerprint clearance card. Applicants who have been denied a fingerprint clearance card shall also provide proof that the applicant qualifies for a good cause exception hearing pursuant to section 41-619.55.

B. A person who is certified pursuant to section 15-203 shall maintain a valid fingerprint clearance card during the valid period of the person's certificate or certificates.

C. The state board of education may review and determine whether to renew or not issue a certificate to an applicant for certification on a finding that the applicant engaged in conduct that is immoral or unprofessional or engaged in conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred. The board shall prescribe guidelines for this process.

D. The state board of education may take disciplinary action against or not renew the certificate of a person on a finding that the certificated person engaged in conduct that is immoral or unprofessional or engaged in conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred. The board shall prescribe guidelines for this process.

E. The department of education may issue conditional certification before an applicant has obtained a valid fingerprint clearance card. A conditional certificate may be used only for employment in the school district that submits an application to the department of education for conditional certification pursuant to this subsection. The state board of education may revoke conditional certification if the information on the application for a conditional certificate is false or incomplete, the applicant is denied a fingerprint clearance card or the conditional certificate is used for employment in a school district other than the school district that is indicated on the application for conditional certification. In addition to any other conditions or requirements deemed necessary by the superintendent of public instruction to protect the health and safety of pupils, conditional certification shall be issued before the applicant obtains a fingerprint clearance card if all of the following conditions are met:

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

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

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

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

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

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

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

G. Any person who participates in a teacher preparation program that is approved by the state board OF EDUCATION or any person who is contracted by this state, by a school district or by a charter school to provide tutoring services shall obtain a fingerprint clearance card pursuant to this section before the person participates in field experience in which services will be provided directly to pupils. A PERSON WHO PARTICIPATES IN A TEACHER PREPARATION PROGRAM AND WHO DOES NOT PARTICIPATE IN FIELD EXPERIENCE OR STUDENT TEACHING IN THIS STATE SHALL NOT BE REQUIRED TO OBTAIN A FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION.

H. The state board of education shall notify the department of public safety if the state board of education receives credible evidence that a person who possesses a valid fingerprint clearance card either:

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

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

I. A person who makes a false statement, representation or certification in any application for certification is guilty of a class 3 misdemeanor.

Sec. 22. Section 15-534.01, Arizona Revised Statutes, is amended to read:

15-534.01. <u>Withdrawal of applications for administrative deficiencies; denial of applications for substantive deficiencies; certification timeframes</u>

A. If an application for certification is administratively incomplete, as prescribed in title 41, chapter 6, article 7.1, the department of education or the state board of education shall issue a written notice requesting the applicant to supply missing documents or other information. The department of education shall consider an application for certification withdrawn if, within sixty days after the date of the notice, the applicant does not supply the documentation or information requested or does not provide reasonable documented justification for the delay. On receipt of documented justification, the department of education shall provide an additional thirty days for the requested documentation or information to be provided before considering an application withdrawn.

B. If an application for certification is substantively incomplete, as prescribed in title 41, chapter 6, article 7.1, the department of education or the state board of education may issue a written notice requesting the applicant to supply additional documents or other information. The state board of education OR THE DEPARTMENT OF EDUCATION shall deny an application for certification if, within sixty days after the date of the notice, the applicant does not supply the documentation or information requested.

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

D. A notice of denial of an application for certification issued by the state board of education OR THE DEPARTMENT OF EDUCATION pursuant to subsection B of this section shall comply with section 41-1076.

E. A person who has had an application for certification denied by the state board of education OR THE DEPARTMENT OF EDUCATION pursuant to subsection B of this section may file a written request for a hearing with the state board of education within fifteen days after receiving the notice of denial. The appeal shall be conducted in accordance with title 41, chapter 6, article 6.

Sec. 23. Section 15-701.01, Arizona Revised Statutes, is amended to read:

15-701.01. <u>High school; graduation; requirements; community college or university courses; transfer from private schools; academic credit</u>

A. The state board of education shall:

1. Prescribe a minimum course of study, as defined in section 15-101 and incorporating the academic standards adopted by the state board of education, for the graduation of pupils from high school.

2. Prescribe competency requirements for the graduation of pupils from high school incorporating the academic standards in at least the areas of reading, writing, mathematics, science and social studies.

3. Develop and adopt competency tests pursuant to section 15-741 for the graduation of pupils from high school in at least the areas of reading, writing and mathematics and shall establish passing scores for each such test. FOR THE PURPOSES OF SATISFYING THE GRADUATION REQUIREMENTS OF THIS PARAGRAPH, A MINIMUM SCORE AS DETERMINED BY THE STATE BOARD OF EDUCATION ON ONE OR MORE NATIONALLY RECOGNIZED COLLEGE ENTRANCE EXAMINATIONS SELECTED BY THE STATE BOARD OF EDUCATION, IF EXAMINATION INFORMATION MAY BE ACCESSED AT NO COST TO THIS STATE, MAY BE SUBSTITUTED FOR PASSING SCORES ON THE ARIZONA INSTRUMENT TO MEASURE STANDARDS TEST IF A PUPIL WHO IS IN GRADE TWELVE HAS PREVIOUSLY TAKEN THE ARIZONA INSTRUMENT TO MEASURE STANDARDS TEST AT EACH ADMINISTRATION OF THE TEST. A pupil shall not be required to pass the competency test required in this paragraph to graduate from high school if the pupil transfers into the district from out-of-state and has successfully passed a statewide assessment test on state adopted standards that are substantially equivalent to the state board adopted academic standards.

B. If the state board of education adopts a competency test as a graduation requirement for a child with a disability as defined in section 15-761 or a child who receives special education pursuant to section 15-763, pupils with individualized education programs shall not be required to achieve passing scores on competency tests in order to graduate from high school unless the pupil is learning at a level appropriate for the pupil's

grade level in a specific academic area and unless passing scores on a competency test are specifically required in a specific academic area by the pupil's individualized education program as mutually agreed on by the pupil's parents and the pupil's individualized education program team or the pupil, if the pupil is at least eighteen years of age. These competency tests shall be administered to pupils in a manner prescribed in the pupil's individualized education program, and school districts and charter schools shall make specific and appropriate accommodations for pupils with individualized education programs. Pupils with section 504 plans as defined in section 15-731 shall not be required to achieve passing scores on competency tests in order to graduate from high school unless the pupil is learning at a level appropriate for the pupil's grade level in a specific academic area and unless passing scores on a competency test are specifically required in a specific academic area by the pupil's section 504 plan that is developed in consultation with the pupil's parents. These competency tests shall be administered to pupils in a manner prescribed in the pupil's section 504 plan, and school districts and charter schools shall make specific and appropriate accommodations for pupils with a section 504 plan. A pupil with an individualized education program or a section 504 plan who graduates from high school but who is not required to achieve a passing score on a competency test in order to graduate from high school shall receive the standard diploma issued by the school district or charter school.

C. The governing board of a school district shall:

1. Prescribe curricula that include the academic standards in the required subject areas pursuant to subsection A, paragraph 1 of this section.

2. Prescribe criteria for the graduation of pupils from the high schools in the school district. These criteria shall include accomplishment of the academic standards in at least reading, writing, mathematics, science and social studies, as determined by district assessment. Other criteria may include additional measures of academic achievement and attendance.

D. The governing board may prescribe the course of study and competency requirements for the graduation of pupils from high school ~~which~~ THAT are in addition to or higher than the course of study and competency requirements which the state board prescribes.

E. The governing board may prescribe competency requirements for the passage of pupils in courses ~~which~~ THAT are required for graduation from high school.

F. A teacher shall determine whether to pass or fail a pupil in a course in high school as provided in section 15-521, paragraph 3 on the basis of the competency requirements, if any have been prescribed. The governing board, if it reviews the decision of a teacher to pass or fail a pupil in a course in high school as provided in section 15-342, paragraph 11, shall base its decision on the competency requirements, if any have been prescribed.

G. Graduation requirements established by the governing board may be met by a pupil who passes courses in the required or elective subjects at a

1 community college or university, if the course is at a higher level than the
2 course taught in the high school attended by the pupil or, if the course is
3 not taught in the high school, the level of the course is equal to or higher
4 than the level of a high school course. The governing board shall determine
5 if the subject matter of the community college or university course is
6 appropriate to the specific requirement the pupil intends it to fulfill and
7 if the level of the community college or university course is less than,
8 equal to or higher than a high school course, and the governing board shall
9 award one-half of a carnegie unit for each three semester hours of credit the
10 pupil earns in an appropriate community college or university course. If a
11 pupil is not satisfied with the decision of the governing board regarding the
12 amount of credit granted or the subjects for which credit is granted, the
13 pupil may request that the state board of education review the decision of
14 the governing board, and the state board shall make the final determination
15 of the amount of credit to be given the pupil and for which subjects. The
16 governing board shall not limit the number of credits that is required for
17 high school graduation and that may be met by taking community college or
18 university courses. For the purposes of this subsection:
19 1. "Community college" means an educational institution that is
20 operated by a community college district as defined in section 15-1401 or a
21 postsecondary educational institution under the jurisdiction of an Indian
22 tribe recognized by the United States department of the interior.
23 2. "University" means a university under the jurisdiction of the
24 Arizona board of regents.
25 H. A pupil who transfers from a private school shall be provided with
26 a list that indicates those credits that have been accepted and denied by the
27 school district. A pupil may request to take an examination in each
28 particular course in which credit has been denied. The school district shall
29 accept the credit for each particular course in which the pupil takes an
30 examination and receives a passing score on a test designed and evaluated by
31 a teacher in the school district who teaches the subject matter on which the
32 examination is based. In addition to the above requirements, the governing
33 board of a school district may prescribe requirements for the acceptance of
34 the credits of pupils who transfer from a private school.
35 I. If a pupil who was previously enrolled in a charter school or
36 school district enrolls in a school district in this state, the school
37 district shall accept credits earned by the pupil in courses or instructional
38 programs at the charter school or school district. The governing board of a
39 school district may adopt a policy concerning the application of transfer
40 credits for the purpose of DETERMINING whether a credit earned by a pupil who
41 was previously enrolled in a school district or charter school will be
42 assigned as an elective or core credit.
43 J. A pupil who transfers from a charter school or school district
44 shall be provided with a list that indicates which credits have been accepted
45 as an elective credit and which credits have been accepted as a core credit

by the school district. Within ten school days after receiving the list, a pupil may request to take an examination in each particular course in which core credit has been denied. The school district shall accept the credit as a core credit for each particular course in which the pupil takes an examination and receives a passing score on a test designed and evaluated by a teacher in the school district who teaches the subject matter on which the examination is based.

K. The state board of education shall adopt rules to allow high school pupils who can demonstrate competency in a particular academic course or subject to obtain academic credit for the course or subject without enrolling in the course or subject.

Sec. 24. Section 15-761, Arizona Revised Statutes, is amended to read:

15-761. Definitions

In this article, unless the context otherwise requires:

1. "Autism" means a developmental disability that significantly affects verbal and nonverbal communication and social interaction and that adversely affects educational performance. Characteristics include irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences. Autism does not include children with characteristics of emotional disability as defined in this section.

2. "Child with a disability":

(a) Means a child who is at least three years but less than twenty-two years of age, who has been evaluated pursuant to section 15-766 and found to have at least one of the following disabilities and who, because of the disability, needs special education and related services:

(i) Autism.

(ii) DEVELOPMENTAL DELAY.

~~(ii)~~ (iii) Emotional disability.

~~(iii)~~ (iv) Hearing impairment.

~~(iv)~~ (v) Other health impairments.

~~(v)~~ (vi) Specific learning disability.

~~(vi)~~ (vii) Mild, moderate or severe mental retardation.

~~(vii)~~ (viii) Multiple disabilities.

~~(viii)~~ (ix) Multiple disabilities with severe sensory impairment.

~~(ix)~~ (x) Orthopedic impairment.

~~(x) Preschool moderate delay.~~

(xi) Preschool severe delay.

~~(xii) Preschool speech/language delay.~~

~~(xiii)~~ (xii) Speech/language impairment.

~~(xiv)~~ (xiii) Traumatic brain injury.

~~(xv)~~ (xiv) Visual impairment.

(b) Does not include a child if the determinant factor for the classification is one or more of the following:

(i) A lack of appropriate instruction in reading, including essential components of reading instruction.

(ii) A lack of appropriate instruction in mathematics.

(iii) Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.

3. "DEVELOPMENTAL DELAY" MEANS PERFORMANCE BY A CHILD WHO IS AT LEAST THREE YEARS OF AGE BUT UNDER TEN YEARS OF AGE ON A NORM-REFERENCED TEST THAT MEASURES AT LEAST ONE AND ONE-HALF, BUT NOT MORE THAN THREE, STANDARD DEVIATIONS BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE IN TWO OR MORE OF THE FOLLOWING AREAS:

(a) COGNITIVE DEVELOPMENT.

(b) PHYSICAL DEVELOPMENT.

(c) COMMUNICATION DEVELOPMENT.

(d) SOCIAL OR EMOTIONAL DEVELOPMENT.

(e) ADAPTIVE DEVELOPMENT.

THE RESULTS OF THE NORM-REFERENCED MEASURE MUST BE CORROBORATED BY INFORMATION FROM A COMPREHENSIVE DEVELOPMENT ASSESSMENT AND FROM PARENTAL INPUT, IF AVAILABLE, AS MEASURED BY A JUDGMENT BASED ASSESSMENT OR SURVEY. IF THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

~~3.~~ 4. "Due process hearing" means a fair and impartial administrative hearing conducted by the state educational agency by an impartial administrative law judge in accordance with federal and state law.

~~4.~~ 5. "Educational disadvantage" means a condition which has limited a child's opportunity for educational experience resulting in a child achieving less than a normal level of learning development.

~~5.~~ 6. "Eligibility for special education" means the pupil must have one of the disabilities contained in paragraph 2 of this section and must also require special education services in order to benefit from an educational program.

~~6.~~ 7. "Emotional disability":

(a) Means a condition whereby a child exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's performance in the educational environment:

(i) An inability to learn which cannot be explained by intellectual, sensory or health factors.

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(iii) Inappropriate types of behavior or feelings under normal circumstances.

(iv) A general pervasive mood of unhappiness or depression.

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(b) Includes children who are schizophrenic but does not include children who are socially maladjusted unless they are also determined to have an emotional disability as determined by evaluation as provided in section 15-766.

~~7.~~ 8. "Hearing impairment" means a loss of hearing acuity, as determined by evaluation pursuant to section 15-766, which interferes with the child's performance in the educational environment and requires the provision of special education and related services.

~~8.~~ 9. "Home school district" means the school district in which the person resides who has legal custody of the child, as provided in section 15-824, subsection B. If the child is a ward of the state and a specific person does not have legal custody of the child, the home school district is the district that the child last attended or, if the child has not previously attended a public school in this state, the school district within which the child currently resides.

~~9.~~ 10. "Impartial administrative law judge" means an administrative law judge of the office of administrative hearings who is knowledgeable in the laws governing special education and administrative hearings.

~~10.~~ 11. "Individualized education program" means a written statement, as defined in 20 United States Code sections 1401 and 1412, for providing special education and related services to a child with a disability.

~~11.~~ 12. "Individualized education program team" means a team whose task is to develop an appropriate educational program for the child and has the same meaning prescribed in 20 United States Code section 1414.

~~12.~~ 13. "Mental retardation" means a significant impairment of general intellectual functioning that exists concurrently with deficits in adaptive behavior and that adversely affects the child's performance in the educational environment.

~~13.~~ 14. "Mild mental retardation" means performance on standard measures of intellectual and adaptive behavior between two and three standard deviations below the mean for children of the same age.

~~14.~~ 15. "Moderate mental retardation" means performance on standard measures of intellectual and adaptive behavior between three and four standard deviations below the mean for children of the same age.

~~15.~~ 16. "Multidisciplinary evaluation team" means a team of persons including individuals described as the individualized education program team and other qualified professionals who shall determine whether a child is eligible for special education.

~~16.~~ 17. "Multiple disabilities" means learning and developmental problems resulting from multiple disabilities as determined by evaluation pursuant to section 15-766 that cannot be provided for adequately in a program designed to meet the needs of children with less complex disabilities. Multiple disabilities include any of the following conditions that require the provision of special education and related services:

(a) Two or more of the following conditions:

(i) Hearing impairment.
(ii) Orthopedic impairment.
(iii) Moderate mental retardation.
(iv) Visual impairment.
(b) A child with a disability listed in subdivision (a) of this paragraph existing concurrently with a condition of mild mental retardation, emotional disability or specific learning disability.

~~17.~~ 18. "Multiple disabilities with severe sensory impairment" means multiple disabilities that include at least one of the following:
(a) Severe visual impairment or severe hearing impairment in combination with another severe disability.
(b) Severe visual impairment and severe hearing impairment.

~~18.~~ 19. "Orthopedic impairment" means one or more severe orthopedic impairments and includes those that are caused by congenital anomaly, disease and other causes, such as amputation or cerebral palsy, and that adversely affect a child's performance in the educational environment.

~~19.~~ 20. "Other health impairments" means limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, due to chronic or acute health problems which adversely affect a pupil's educational performance.

~~20.~~ 21. "Out-of-home care" means the placement of a child with a disability outside of the home environment and includes twenty-four hour residential care, group care or foster care on either a full-time or part-time basis.

~~21.~~ 22. "Parent" means:
(a) Either a natural or adoptive parent of a child.
(b) A guardian, but not this state if the child is a ward of this state.
(c) A person acting in the place of a natural or adoptive parent with whom the child lives or a person who is legally responsible for the child's welfare.
(d) A surrogate parent.
(e) A foster parent to the extent permitted by state law.

~~22.~~ 23. "Preschool child" means a child who is at least three years of age but who has not reached the required age for kindergarten, subject to section 15-771, subsection G.

~~23. "Preschool moderate delay" means performance by a preschool child on a norm-referenced test that measures at least one and one-half, but not more than three, standard deviations below the mean for children of the same chronological age in two or more of the following areas:~~
~~(a) Cognitive development.~~
~~(b) Physical development.~~
~~(c) Communication development.~~
~~(d) Social or emotional development.~~
~~(e) Adaptive development.~~

~~The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.~~

24. "Preschool severe delay" means performance by a preschool child on a norm-referenced test that measures more than three standard deviations below the mean for children of the same chronological age in one or more of the following areas:

(a) Cognitive development.

(b) Physical development.

(c) Communication development.

(d) Social or emotional development.

(e) Adaptive development.

The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.

~~25. "Preschool speech/language delay" means performance by a preschool child on a norm-referenced language test that measures at least one and one-half standard deviations below the mean for children of the same chronological age or whose speech, out of context, is unintelligible to a listener who is unfamiliar with the child. Eligibility under this paragraph is appropriate only if a comprehensive developmental assessment or norm-referenced assessment and parental input indicate that the child is not eligible for services under another preschool category. The evaluation team shall determine eligibility based on a preponderance of the information presented.~~

~~26.~~ 25. "Prior written notice" means written prior notice that a public educational agency is required to send to parents whenever the public educational agency proposes or refuses to initiate or change the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education.

~~27.~~ 26. "Public educational agency" means a school district, a charter school, an accommodation school, a state supported institution or any other political subdivision of this state that is responsible for providing education to children with disabilities.

~~28.~~ 27. "Related services" means those supportive services, as defined in 20 United States Code section 1401, that are required to assist a child with a disability who is eligible to receive special education services in order for the child to benefit from special education.

1 ~~29.~~ 28. "Residential special education placement" means the placement
2 of a child with a disability in a public or private residential program, as
3 provided in section 15-765, subsection G, in order to provide necessary
4 special education and related services as specified in the child's
5 individualized education program.
6 ~~30.~~ 29. "Severe mental retardation" means performance on standard
7 measures of intellectual and adaptive behavior measures at least four
8 standard deviations below the mean for children of the same age.
9 ~~31.~~ 30. "Special education" means specially designed instruction that
10 meets the unique needs of a child with a disability and that is provided
11 without cost to the parents of the child.
12 ~~32.~~ 31. "Special education referral" means a written request for an
13 evaluation to determine whether a pupil is eligible for special education
14 services that, for referrals not initiated by a parent, includes
15 documentation of appropriate efforts to educate the pupil in the regular
16 education program.
17 ~~33.~~ 32. "Specially designed instruction" means adapting the content,
18 methodology or delivery of instruction to address the unique needs of a child
19 with a disability and to ensure that child's access to the general curriculum
20 as identified in the academic standards adopted by the state board of
21 education.
22 ~~34.~~ 33. "Specific learning disability" has the same meaning ~~prescribed~~
23 AS DEFINED in 20 United States Code section 1401.
24 ~~35.~~ 34. "Speech/language impairment":
25 (a) FOR A PRESCHOOL CHILD, MEANS PERFORMANCE ON A NORM-REFERENCED
26 LANGUAGE TEST THAT MEASURES AT LEAST ONE AND ONE-HALF STANDARD DEVIATIONS
27 BELOW THE MEAN FOR CHILDREN OF THE SAME CHRONOLOGICAL AGE OR WHOSE SPEECH,
28 OUT OF CONTEXT, IS UNINTELLIGIBLE TO A LISTENER WHO IS UNFAMILIAR WITH THE
29 CHILD. ELIGIBILITY FOR A PRESCHOOL CHILD UNDER THIS SUBDIVISION IS
30 APPROPRIATE ONLY WHEN A COMPREHENSIVE DEVELOPMENTAL ASSESSMENT AND PARENTAL
31 INPUT INDICATE THAT THE PRESCHOOL CHILD IS NOT ELIGIBLE FOR SERVICES UNDER
32 ANOTHER PRESCHOOL CATEGORY OR UNDER THE DEVELOPMENTAL DELAY CATEGORY.
33 (b) FOR A CHILD WHO HAS REACHED THE REQUIRED AGE FOR KINDERGARTEN,
34 means A speech or language impairment as ~~prescribed~~ DEFINED in 34 Code of
35 Federal Regulations section 300.8.
36 ~~36.~~ 35. "State educational agency" means the Arizona department of
37 education.
38 ~~37.~~ 36. "State placing agency" has the same meaning prescribed in
39 section 15-1181.
40 ~~38.~~ 37. "Surrogate parent" means a person who has been appointed by
41 the court or by the department of education pursuant to section 15-763.01 in
42 order to represent a child in decisions regarding special education.
43 ~~39.~~ 38. "Traumatic brain injury":
44 (a) Means an acquired injury to the brain that is caused by an
45 external physical force and that results in total or partial functional

disability or psychosocial impairment, or both, that adversely affects educational performance.

(b) Applies to open or closed head injuries resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech.

(c) Does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

~~40.~~ 39. "Visual impairment" has the same meaning prescribed in 34 Code of Federal Regulations section 300.8.

~~41.~~ 40. "Ward of the state" has the same meaning prescribed in 20 United States Code section 1401.

Sec. 25. Section 15-771, Arizona Revised Statutes, is amended to read:

15-771. Preschool programs for children with disabilities; definition

A. Each school district shall make available an educational program for preschool children with disabilities who reside in the school district and who are not already receiving services that have been provided through the department of education. The state board of education shall prescribe rules for use by school districts in the provision of educational programs for preschool children with disabilities. School districts are required to make available educational programs for and, for the purposes of calculating average daily attendance and average daily membership, may count only those preschool children who meet the definition of one of the following conditions:

1. Hearing impairment.
2. Visual impairment.
3. ~~Preschool moderate~~ DEVELOPMENTAL delay.
4. Preschool severe delay.
5. ~~Preschool~~ Speech/language ~~delay~~ IMPAIRMENT.

~~The school district may make available an educational program for speech or language impaired preschool children whose performance on a standardized language test measures one and one-half standard deviations, or less, below the mean for children of their chronological age. The superintendent of public instruction shall prescribe guidelines for the eligibility of speech or language impaired children, except that eligibility under this subsection is appropriate only when a comprehensive developmental assessment or norm-referenced assessment and parental input indicate that the child is not eligible for services under another preschool category.~~

B. The state board of education shall annually distribute to school districts at least ten per cent of the monies it receives under 20 United States Code section 1411(c)(2) for preschool programs for children with disabilities. The state board shall prescribe rules for the distribution of the monies to school districts.

C. The governing board of a school district may submit a proposal to the state board of education as prescribed by the state board to receive monies for preschool programs for children with disabilities as provided in this section. A school district which receives monies as provided in this section shall include the monies in the special projects section of the budget as provided in section 15-903, subsection F.

D. All school districts shall cooperate, if appropriate, with community organizations that provide services to preschool children with disabilities in the provision of the district's preschool program for children with disabilities.

E. A school district may not admit a child to a preschool program for children with disabilities unless the child is evaluated and recommended for placement as provided in sections 15-766 and 15-767.

F. For the purpose of allocating monies pursuant to 20 United States Code section 1419(g)(1)(B)(i), "jurisdiction" includes high school pupils whose parents reside within the boundaries of a common school district. The common school district shall ensure such high school pupils are not counted by any other school district.

G. For THE purposes of this section, "preschool child" means a child who is at least three years of age but who has not reached the age required for kindergarten. A preschool child is three years of age as of the date of the child's third birthday. The governing board of a school district may admit otherwise eligible children who are within ninety days of their third birthday, if it is determined to be in the best interest of the individual child. Children who are admitted to programs for preschool children prior to their third birthday are entitled to the same provision of services as if they were three years of age.

Sec. 26. Repeal

Senate bill 1187, section 27, forty-ninth legislature, first regular session, as transmitted to the governor, is repealed.

Sec. 27. Section 15-808, Arizona Revised Statutes, is amended to read:

15-808. Arizona online instruction; reports; definitions

A. ~~A technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION shall be instituted ~~on a pilot basis~~ to meet the needs of pupils in the information age. ~~Until June 30, 2003,~~ The state board of education shall select ~~up to four existing~~ traditional public schools~~, at least one of which shall serve pupils in kindergarten programs and grades one through twelve, and beginning July 1, 2003, the state board of education shall select seven existing traditional public schools~~ and the state board for charter schools shall ~~select seven~~ SPONSOR charter schools to ~~participate in the program~~ BE ONLINE COURSE PROVIDERS OR ONLINE SCHOOLS. THE STATE BOARD OF EDUCATION AND THE STATE BOARD FOR CHARTER SCHOOLS SHALL JOINTLY DEVELOP STANDARDS FOR THE APPROVAL OF ONLINE COURSE PROVIDERS AND ONLINE SCHOOLS based on the following criteria:

1. The depth and breadth of curriculum choices.

2. The variety of educational methodologies employed by the school and the means of addressing the unique needs and learning styles of targeted pupil populations, including computer assisted learning systems, virtual classrooms, virtual laboratories, electronic field trips, electronic mail, virtual tutoring, online help desk, group chat sessions and noncomputer based activities performed under the direction of a certificated teacher.

3. The availability of an intranet or private network to safeguard pupils against predatory and pornographic elements of the internet.

4. The availability of filtered research access to the internet.

5. The availability of private individual electronic mail between pupils, teachers, administrators and parents in order to protect the confidentiality of pupil records and information.

~~6. The availability of broadcast quality television production and editing facilities on campus.~~

~~7. The availability of faculty members who are experienced in broadcast television production.~~

~~8.~~ 6. The availability of faculty members who are experienced with computer networks, the internet and computer animation.

~~9.~~ 7. The extent to which the school intends to develop partnerships with universities, community colleges and private businesses.

~~10.~~ 8. The services offered to developmentally disabled populations.

~~11.~~ 9. The grade levels that will be served ~~by the program~~.

B. ~~Notwithstanding subsection A of this section, any school that was previously approved to participate is required to reapply every five years for participation in the program.~~ EACH NEW SCHOOL THAT PROVIDES ONLINE INSTRUCTION SHALL PROVIDE ONLINE INSTRUCTION ON A PROBATIONARY STATUS. AFTER A NEW SCHOOL THAT PROVIDES ONLINE INSTRUCTION HAS CLEARLY DEMONSTRATED THE ACADEMIC INTEGRITY OF ITS INSTRUCTION THROUGH THE ACTUAL IMPROVEMENT OF THE ACADEMIC PERFORMANCE OF ITS STUDENTS, THE SCHOOL MAY APPLY TO BE REMOVED FROM PROBATIONARY STATUS. THE STATE BOARD OF EDUCATION OR THE STATE BOARD FOR CHARTER SCHOOLS SHALL REMOVE FROM ARIZONA ONLINE INSTRUCTION ANY PROBATIONARY SCHOOL THAT FAILS TO CLEARLY DEMONSTRATE IMPROVEMENT IN ACADEMIC PERFORMANCE WITHIN THREE YEARS MEASURED AGAINST GOALS IN THE APPROVED APPLICATION AND THE STATE'S ACCOUNTABILITY SYSTEM. The state board of education and the state board for charter schools shall review the effectiveness of each participating school and other information that is contained in the annual report prescribed in subsection C of this section. ~~to determine whether to renew a school's participation in the technology assisted project-based instruction program. At least eighty per cent of the pupils who are accepted each academic school year in each school participating in the program must have been previously enrolled in and attended a public school in the previous school year. Kindergarten pupils shall not participate in the technology assisted project-based instruction program, except that a kindergarten pupil may participate in the program if the pupil has a sibling who is currently enrolled in and attending the program.~~ ALL PUPILS WHO PARTICIPATE IN ARIZONA

ONLINE INSTRUCTION SHALL RESIDE IN THIS STATE. Pupils who participate in ~~the program~~ ARIZONA ONLINE INSTRUCTION are subject to the testing requirements prescribed in chapter 7, article 3 of this title. Upon enrollment, the school shall notify the parents or guardians of the pupil of the state testing requirements. If a pupil fails to comply with the testing requirements and the school administers the tests pursuant to this subsection to less than ninety-five per cent of the pupils in ~~the program~~ ARIZONA ONLINE INSTRUCTION, the pupil shall not be allowed to participate in ~~the program~~ ARIZONA ONLINE INSTRUCTION.

~~C. Each school selected by the state board of education to participate in the technology assisted project-based instruction program shall submit an annual report to the state board of education and the joint legislative budget committee. The state board of education and the state board for charter schools shall collaborate to develop a uniform reporting format to be used by all schools that participate in the program. Beginning July 1, 2003, each school selected by the state board for charter schools to participate in the technology assisted project-based instruction program shall submit an annual report to the state board for charter schools and the joint legislative budget committee. The reports shall be submitted by August 1 and shall include the following information:~~

~~1. A description of the educational services that are offered under the program and that specifically relate to the depth and breadth of the curriculum choices offered by the school.~~

~~2. A description of the effects of media and technology on the delivery of specific educational services to specific pupil populations.~~

~~3. Academic advancement as measured in grade level equivalents each academic year based on a standardized norm-referenced achievement test.~~

~~4. Data identified by the state board of education or the state board for charter schools, as appropriate, that compares the academic performance of pupils who participate in the technology assisted project-based instruction program with other pupils in this state and with pupils in that school who do not participate in the technology assisted project-based instruction program.~~

~~5. The results of a survey of pupil satisfaction with the program, including:~~

~~(a) Pupils' attitudes about delivery modalities employed by the school.~~

~~(b) Changes in pupils' attitudes toward learning in general.~~

~~(c) Changes in pupils' attitudes about their own ability to learn and about their own academic progress.~~

~~(d) Pupils' attitudes about the school they attend.~~

~~6. The results of a survey of parental satisfaction with the program, including:~~

~~(a) Parents' and their children's attitudes about the delivery modalities employed by the school.~~

~~(b) Changes in their children's attitudes about learning in general.~~

~~(c) Changes in their children's attitudes about their ability to learn and about their academic progress.~~

~~(d) Parents' and their children's attitudes about the school that the child attends.~~

~~7. A description of the availability and equitable distribution of educational services provided under the program, including specific descriptions of the effectiveness of technology tools and modalities used to address the needs of any underserved populations targeted by the school.~~

~~8. A description of the operational and administrative efficiency of the program.~~

~~9. A description of the cost-effectiveness of the program.~~

~~10. A listing of the salaries, by titles and job descriptions, of the administrators who are employed at or contracted for employment at each school selected by the state board of education or the state board for charter schools to participate in the technology assisted project-based instruction program.~~

C. BEGINNING JULY 1, 2010, THE STATE BOARD OF EDUCATION AND THE STATE BOARD FOR CHARTER SCHOOLS SHALL DEVELOP ANNUAL REPORTING MECHANISMS FOR SCHOOLS THAT PARTICIPATE IN ARIZONA ONLINE INSTRUCTION.

D. The ~~state board~~ DEPARTMENT of education ~~and joint legislative budget committee~~ shall ~~collaboratively~~ compile ~~and evaluate~~ the information submitted in the annual reports by schools participating in the ~~pilot program~~ ARIZONA ONLINE INSTRUCTION~~, pursuant to subsection C of this section~~. The ~~state board~~ DEPARTMENT of education ~~and the joint legislative budget committee~~ shall SUBMIT THE COMPILED report ~~their findings~~ to the governor, the speaker of the house of representatives and the president of the senate by November 15 of each year.

E. Each school selected for ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION shall ensure that a daily log is maintained for each pupil who participates in ~~the program~~ ARIZONA ONLINE INSTRUCTION. The daily log shall describe the amount of time spent by each pupil participating in ~~the program~~ ARIZONA ONLINE INSTRUCTION pursuant to this section on academic tasks. The daily log shall be used by the school district or charter school to qualify the pupils who participate in ~~the program~~ ARIZONA ONLINE INSTRUCTION in the school's average daily attendance calculations pursuant to section 15-901.

F. If a pupil is enrolled in a school district or charter school and also participates in ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION, the sum of the average daily membership, which includes enrollment as prescribed in section 15-901, subsection A, paragraph 2, subdivisions (a) and (b) and daily attendance as prescribed in section 15-901, subsection A, paragraph 6, for that pupil in the school district or charter school and in ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION shall not exceed 1.0. If the

pupil is enrolled in a school district or a charter school and also participates in ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION and the sum of the daily membership or daily attendance for that pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between the school district or charter school and ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION based on the percentage of total time that the pupil is enrolled or in attendance in the school district or charter school and ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION. The uniform system of financial records shall include guidelines for the apportionment of the pupil enrollment and attendance as provided in this subsection. PUPILS IN ARIZONA ONLINE INSTRUCTION DO NOT INCUR ABSENCES FOR PURPOSES OF SECTION 15-901 AND MAY GENERATE AN AVERAGE DAILY ATTENDANCE OF 1.0 FOR ATTENDANCE HOURS DURING ANY HOUR OF THE DAY, DURING ANY DAY OF THE WEEK AND AT ANY TIME BETWEEN JULY 1 AND JUNE 30 OF EACH FISCAL YEAR. FOR KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH EIGHT, AVERAGE DAILY MEMBERSHIP SHALL BE CALCULATED BY DIVIDING THE INSTRUCTIONAL HOURS AS REPORTED IN THE DAILY LOG REQUIRED IN SUBSECTION E OF THIS SECTION BY THE APPLICABLE HOURLY REQUIREMENTS PRESCRIBED IN SECTION 15-901. FOR GRADES NINE THROUGH TWELVE, AVERAGE DAILY MEMBERSHIP SHALL BE CALCULATED BY DIVIDING THE INSTRUCTIONAL HOURS AS REPORTED IN THE DAILY LOG REQUIRED IN SUBSECTION E OF THIS SECTION BY NINE HUNDRED. THE AVERAGE DAILY MEMBERSHIP OF A PUPIL WHO PARTICIPATES IN ONLINE INSTRUCTION SHALL NOT EXCEED 1.0. AVERAGE DAILY MEMBERSHIP SHALL NOT BE CALCULATED ON THE ONE HUNDREDTH DAY OF INSTRUCTION FOR THE PURPOSES OF THIS SECTION. FUNDING SHALL BE DETERMINED AS FOLLOWS:

1. PUPILS WHO ARE ENROLLED FULL-TIME IN ARIZONA ONLINE INSTRUCTION SHALL BE FUNDED FOR ONLINE INSTRUCTION AT NINETY-FIVE PER CENT OF THE BASE SUPPORT LEVEL THAT WOULD BE CALCULATED FOR THAT PUPIL IF THAT PUPIL WERE ENROLLED AS A FULL-TIME STUDENT IN A SCHOOL DISTRICT OR CHARTER SCHOOL THAT DOES NOT PARTICIPATE IN ARIZONA ONLINE INSTRUCTION. ADDITIONAL ASSISTANCE, CAPITAL OUTLAY REVENUE LIMIT AND SOFT CAPITAL ALLOCATION LIMIT SHALL BE CALCULATED IN THE SAME MANNER THEY WOULD BE CALCULATED IF THE STUDENT WERE ENROLLED IN A DISTRICT OR CHARTER SCHOOL THAT DOES NOT PARTICIPATE IN ARIZONA ONLINE INSTRUCTION. A PUPIL ENROLLED IN ARIZONA ONLINE INSTRUCTION SHALL BE CONSIDERED FULL TIME IF THE PUPIL'S AVERAGE INSTRUCTIONAL HOURS, AS REPORTED IN THE DAILY LOG REQUIRED IN SUBSECTION E OF THIS SECTION, EXCEED ONE HUNDRED NINETEEN MINUTES FOR KINDERGARTEN PROGRAMS, TWO HUNDRED THIRTY-EIGHT MINUTES FOR GRADES ONE THROUGH THREE, TWO HUNDRED NINETY-SEVEN MINUTES FOR GRADES FOUR THROUGH SIX, THREE HUNDRED FIFTY-SIX MINUTES FOR GRADES SEVEN AND EIGHT AND THREE HUNDRED MINUTES FOR GRADES NINE THROUGH TWELVE.

2. PUPILS WHO ARE ENROLLED PART-TIME IN ARIZONA ONLINE INSTRUCTION SHALL BE FUNDED FOR ONLINE INSTRUCTION AT EIGHTY-FIVE PER CENT OF THE BASE SUPPORT LEVEL THAT WOULD BE CALCULATED FOR THAT PUPIL IF THAT PUPIL WERE ENROLLED AS A PART-TIME STUDENT IN A SCHOOL DISTRICT OR CHARTER SCHOOL THAT DOES NOT PARTICIPATE IN ARIZONA ONLINE INSTRUCTION. ADDITIONAL ASSISTANCE,

CAPITAL OUTLAY REVENUE LIMIT AND SOFT CAPITAL ALLOCATION LIMIT SHALL BE CALCULATED IN THE SAME MANNER THEY WOULD BE CALCULATED IF THE STUDENT WERE ENROLLED IN A DISTRICT OR CHARTER SCHOOL THAT DOES NOT PARTICIPATE IN ARIZONA ONLINE INSTRUCTION. A PUPIL ENROLLED IN ARIZONA ONLINE INSTRUCTION SHALL BE CONSIDERED PART TIME IF THE PUPIL'S AVERAGE INSTRUCTIONAL HOURS, AS REPORTED IN THE DAILY LOG REQUIRED IN SUBSECTION E OF THIS SECTION, ARE LESS THAN THE HOURS REQUIRED FOR A FULL-TIME PUPIL PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION.

~~G. If at any time the superintendent of public instruction determines that a school district that was previously admitted to the technology assisted project-based instruction program is not meeting the criteria prescribed in subsection A of this section, the superintendent of public instruction may recommend that the state board of education replace that school district with a school district of the superintendent of public instruction's choice that meets the criteria prescribed in subsection A of this section. The state board of education shall consider and take formal action on the superintendent of public instruction's recommendation.~~

~~H. The enrollment of pupils in the technology assisted project-based instruction program in each school that was previously approved to participate in the program shall not grow more than one hundred per cent in any fiscal year.~~

~~I.~~ G. If the academic achievement of a pupil declines while the pupil is participating in ~~the technology assisted project-based instruction program~~ ARIZONA ONLINE INSTRUCTION, the pupil's parents, the pupil's teachers and the principal or head teacher of the school shall confer to evaluate whether the pupil should be allowed to continue to participate in ~~the program~~ ARIZONA ONLINE INSTRUCTION.

H. TO ENSURE THE ACADEMIC INTEGRITY OF PUPILS WHO PARTICIPATE IN ONLINE INSTRUCTION, ARIZONA ONLINE INSTRUCTION SHALL INCLUDE MULTIPLE DIVERSE ASSESSMENT MEASURES AND THE PROCTORED ADMINISTRATION OF REQUIRED STATE STANDARDIZED TESTS.

I. FOR THE PURPOSES OF THIS SECTION:

1. "ONLINE COURSE PROVIDER" MEANS A SCHOOL OTHER THAN AN ONLINE SCHOOL THAT IS SELECTED BY THE STATE BOARD OF EDUCATION OR THE STATE BOARD FOR CHARTER SCHOOLS TO PARTICIPATE IN ARIZONA ONLINE INSTRUCTION PURSUANT TO THIS SECTION AND THAT PROVIDES AT LEAST ONE ONLINE ACADEMIC COURSE THAT IS APPROVED BY THE STATE BOARD OF EDUCATION.

2. "ONLINE SCHOOL" MEANS A SCHOOL THAT PROVIDES AT LEAST FOUR ONLINE ACADEMIC COURSES OR ONE OR MORE ONLINE COURSES FOR THE EQUIVALENT OF AT LEAST FIVE HOURS EACH DAY FOR ONE HUNDRED EIGHTY SCHOOL DAYS AND THAT IS A CHARTER SCHOOL THAT IS SPONSORED BY THE STATE BOARD FOR CHARTER SCHOOLS OR A TRADITIONAL PUBLIC SCHOOL THAT IS SELECTED BY THE STATE BOARD OF EDUCATION TO PARTICIPATE IN ARIZONA ONLINE INSTRUCTION.

Sec. 28. Section 15-816.01, Arizona Revised Statutes, is amended to read:

15-816.01. Enrollment policies

A. School district governing boards shall establish policies and shall implement an open enrollment policy without charging tuition. Tuition may be charged to nonresident pupils only if the tuition is authorized under section 15-764, subsection C, section 15-797, subsection C, section 15-823, subsection A, section 15-824, subsection A or section 15-825 or if two school districts have entered into a voluntary agreement for the payment of tuition for certain pupils. These policies shall include admission criteria, application procedures and transportation provisions. A SCHOOL DISTRICT MAY GIVE ENROLLMENT PREFERENCE TO AND RESERVE CAPACITY FOR PUPILS WHO ARE CHILDREN OF PERSONS WHO ARE EMPLOYED BY OR AT A SCHOOL IN THE SCHOOL DISTRICT. A copy of the district policies for open enrollment shall be filed with the department of education.

B. The governing board of the district educating the pupil may provide transportation limited to no more than twenty miles each way to and from the school of attendance or to and from a pickup point on a regular transportation route or for the total miles traveled each day to an adjacent district for eligible nonresident pupils who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches.

C. The governing board of the district educating the pupil shall provide transportation limited to no more than twenty miles each way to and from the school of attendance or to and from a pickup point on a regular transportation route or for the total miles traveled each day to an adjacent district for nonresident pupils with disabilities whose individualized education program specifies that transportation is necessary for fulfillment of the program.

Sec. 29. Section 15-901, Arizona Revised Statutes, is amended to read:

15-901. Definitions

A. In this title, unless the context otherwise requires:

1. "Average daily attendance" or "ADA" means actual average daily attendance through the first one hundred days or two hundred days in session, as applicable.

2. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year. Withdrawals include students formally withdrawn from schools and students absent for ten consecutive school days, except for excused absences as identified by the department of education. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student.

(a) "Fractional student" means:

(i) For common schools, until fiscal year 2001-2002, a preschool child who is enrolled in a program for preschool children with disabilities of at least three hundred sixty minutes each week or a kindergarten student at least five years of age prior to January 1 of the school year and enrolled in a school kindergarten program that meets at least three hundred forty-six instructional hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the kindergarten program shall meet at least three hundred forty-eight hours. In fiscal year 2002-2003, the kindergarten program shall meet at least three hundred fifty hours. In fiscal year 2003-2004, the kindergarten program shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005, the kindergarten program shall meet at least three hundred fifty-four hours. In fiscal year 2005-2006 and each fiscal year thereafter, the kindergarten program shall meet at least three hundred fifty-six hours. Lunch periods and recess periods may not be included as part of the instructional hours unless the child's individualized education program requires instruction during those periods and the specific reasons for such instruction are fully documented. In computing the average daily membership, preschool children with disabilities and kindergarten students shall be counted as one-half of a full-time student. For common schools, a part-time student is a student enrolled for less than the total time for a full-time student as defined in this section. A part-time common school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of the time a full-time student is enrolled as defined in subdivision (b) of this paragraph.

(ii) For high schools, a part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education in a recognized high school and who is taught in less than twenty instructional hours per week prorated for any week with fewer than five school days. A part-time high school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of a full-time instructional program as defined in subdivision (c) of this paragraph.

(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age prior to January 1 of a school year, who has not graduated from the highest grade taught in the school district and who is regularly enrolled in a course of study required by the state board of education. Until fiscal year 2001-2002, first, second and third grade students, ungraded students at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities who are at least five, but under six, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least six hundred ninety-two hours during the minimum number of

1 days required in a school year as provided in section 15-341. In fiscal year
2 2001-2002, the program shall meet at least six hundred ninety-six hours. In
3 fiscal year 2002-2003, the program shall meet at least seven hundred
4 hours. In fiscal year 2003-2004, the program shall meet at least seven
5 hundred four hours. In fiscal year 2004-2005, the program shall meet at
6 least seven hundred eight hours. In fiscal year 2005-2006 and in each fiscal
7 year thereafter, the program shall meet at least seven hundred twelve
8 hours. Until fiscal year 2001-2002, fourth, fifth and sixth grade students
9 or ungraded students at least nine, but under twelve, years of age by
10 September 1 must be enrolled in an instructional program that meets for a
11 total of at least eight hundred sixty-five hours during the minimum number of
12 school days required in a school year as provided in section 15-341. In
13 fiscal year 2001-2002, the program shall meet at least eight hundred seventy
14 hours. In fiscal year 2002-2003, the program shall meet at least eight
15 hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet
16 at least eight hundred eighty hours. In fiscal year 2004-2005, the program
17 shall meet at least eight hundred eighty-five hours. In fiscal year
18 2005-2006 and each fiscal year thereafter, the program shall meet at least
19 eight hundred ninety hours. Until fiscal year 2001-2002, seventh and eighth
20 grade students or ungraded students at least twelve, but under fourteen,
21 years of age by September 1 must be enrolled in an instructional program that
22 meets for a total of at least one thousand thirty-eight hours during the
23 minimum number of days required in a school year as provided in section
24 15-341. In fiscal year 2001-2002, the program shall meet at least one
25 thousand forty-four hours. In fiscal year 2002-2003, the program shall meet
26 at least one thousand fifty hours. In fiscal year 2003-2004, the program
27 shall meet at least one thousand fifty-six hours. In fiscal year 2004-2005,
28 the program shall meet at least one thousand sixty-two hours. In fiscal year
29 2005-2006 and each fiscal year thereafter, the program shall meet at least
30 one thousand sixty-eight hours. Lunch periods and recess periods may not be
31 included as part of the instructional hours unless the student is a child
32 with a disability and the child's individualized education program requires
33 instruction during those periods and the specific reasons for such
34 instruction are fully documented.
35 (ii) For high schools, except as provided in section 15-105, a student
36 not graduated from the highest grade taught in the school district, or an
37 ungraded student at least fourteen years of age by September 1, and enrolled
38 in at least a full-time instructional program of subjects that count toward
39 graduation as defined by the state board of education in a recognized high
40 school. A full-time student shall not be counted more than once for
41 computation of average daily membership.
42 (iii) For homebound or hospitalized, a student receiving at least four
43 hours of instruction per week.
44 (c) "Full-time instructional program" means:

(i) Through fiscal year 2000-2001, at least four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

(ii) For fiscal year 2001-2002, an instructional program that meets at least a total of seven hundred four hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-two hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

(iii) For fiscal year 2002-2003, an instructional program that meets at least a total of seven hundred eight hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-two hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

(iv) For fiscal year 2003-2004, an instructional program that meets at least a total of seven hundred twelve hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

(v) For fiscal year 2004-2005, an instructional program that meets at least a total of seven hundred sixteen hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

(vi) For fiscal year 2005-2006 and each fiscal year thereafter, an instructional program that meets at least a total of seven hundred twenty hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

3. "Budget year" means the fiscal year for which the school district is budgeting and which immediately follows the current year.

4. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through eight.

5. "Current year" means the fiscal year in which a school district is operating.

6. "Daily attendance" means:

(a) For common schools, days in which a pupil:

(i) Of a kindergarten program or ungraded, but not group B children with disabilities, and at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred forty-six hours but is less than six hundred ninety-two hours such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance.

(ii) Of the first, second or third grades, ungraded and at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities and at least five, but under six, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day.

(iii) Of the fourth, fifth or sixth grades or ungraded and at least nine, but under twelve, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(iv) Of the seventh or eighth grades or ungraded and at least twelve, but under fourteen, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil's fractional membership:

(i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day's attendance for each one-fourth of full-time instructional time attended.

(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day's attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance.

(c) For common schools, the attendance of a preschool child with disabilities shall be counted as one-fourth day's attendance for each thirty-six minutes of attendance not including lunch periods and recess periods, except as provided in paragraph 2, subdivision (a), item (i) of this subsection for children with disabilities up to a maximum of three hundred sixty minutes each week.

(d) For high schools or ungraded schools in which the pupil is at least fourteen years of age by September 1, the attendance of a pupil shall not be counted as a full day unless the pupil is actually and physically in attendance and enrolled in and carrying four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty hours a year, or the equivalent, that count toward graduation in a recognized high school except as provided in section 15-797 and subdivision (e) of this paragraph. Attendance of a pupil carrying less than the load prescribed shall be prorated.

(e) For high schools or ungraded schools in which the pupil is at least fourteen years of age by September 1, the attendance of a pupil may be counted as one-fourth of a day's attendance for each sixty minutes of instructional time in a subject that counts toward graduation, except that attendance for a pupil shall not exceed the pupil's full or fractional membership.

(f) For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction.

(g) For school districts which maintain school for an approved year-round school year operation, attendance shall be based on a computation, as prescribed by the superintendent of public instruction, of the one hundred eighty days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled.

7. "Daily route mileage" means the sum of:

(a) The total number of miles driven daily by all buses of a school district while transporting eligible students from their residence to the school of attendance and from the school of attendance to their residence on scheduled routes approved by the superintendent of public instruction.

(b) The total number of miles driven daily on routes approved by the superintendent of public instruction for which a private party, a political subdivision or a common or a contract carrier is reimbursed for bringing an eligible student from the place of his residence to a school transportation pickup point or to the school of attendance and from the school transportation scheduled return point or from the school of attendance to his residence. Daily route mileage includes the total number of miles necessary to drive to transport eligible students from and to their residence as provided in this paragraph.

8. "District support level" means the base support level plus the transportation support level.

9. "Eligible students" means:

(a) Students who are transported by or for a school district and who qualify as full-time students or fractional students, except students for whom transportation is paid by another school district or a county school superintendent, and:

(i) For common school students, whose place of actual residence within the school district is more than one mile from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one mile from the school facility of attendance.

(ii) For high school students, whose place of actual residence within the school district is more than one and one-half miles from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one and one-half miles from the school facility of attendance.

(b) Kindergarten students, for purposes of computing the number of eligible students under subdivision (a), item (i) of this paragraph, shall be counted as full-time students, notwithstanding any other provision of law.

(c) Children with disabilities, as defined by section 15-761, who are transported by or for the school district or who are admitted pursuant to chapter 8, article 1.1 of this title and who qualify as full-time students or fractional students regardless of location or residence within the school district or children with disabilities whose transportation is required by the pupil's individualized education program.

(d) Students whose residence is outside the school district and who are transported within the school district on the same basis as students who reside in the school district.

10. "Enrolled" or "enrollment" means when a pupil is currently registered in the school district.

11. "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce for the four quarters of the calendar year.

12. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district which is allocated to teaching high school subjects with permission of the state board of education.

13. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

14. "Student count" means average daily membership as prescribed in this subsection for the fiscal year prior to the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

15. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

16. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

17. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

18. "Unified school district" means a political subdivision of the state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means:

(a) For fiscal year 2007-2008, three thousand two hundred twenty-six dollars eighty-eight cents.

(b) For fiscal year 2008-2009, three thousand two hundred ninety-one dollars forty-two cents.

3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to school children in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "DD" MEANS PROGRAMS FOR CHILDREN WITH DEVELOPMENTAL DELAYS WHO ARE AT LEAST THREE YEARS OF AGE BUT UNDER TEN YEARS OF AGE. A PRESCHOOL CHILD WHO IS CATEGORIZED UNDER THIS PARAGRAPH IS NOT ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943, PARAGRAPH 2, SUBDIVISION (b).

~~6.~~ 7. "ED, MIMR, SLD, SLI and OHI" means programs for children with emotional disabilities, mild mental retardation, a specific learning disability, a speech/language impairment and other health impairments. A PRESCHOOL CHILD WHO IS CATEGORIZED AS SLI UNDER THIS PARAGRAPH IS NOT ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 15-943, PARAGRAPH 2, SUBDIVISION (b).

~~7.~~ 8. "ED-P" means programs for children with emotional disabilities who are enrolled in private special education programs as prescribed in section 15-765, subsection D, paragraph 1 or in an intensive school district program as provided in section 15-765, subsection D, paragraph 2.

~~8.~~ 9. "ELL" means English learners who do not speak English or whose native language is not English, who are not currently able to perform ordinary classroom work in English and who are enrolled in an English language education program pursuant to sections 15-751, 15-752 and 15-753.

~~9.~~ 10. "Full-time equivalent certified teacher" or "FTE certified teacher" means for a certified teacher the following:

(a) If employed full time as defined in section 15-501, 1.00.

(b) If employed less than full time, multiply 1.00 by the percentage of a full school day, or its equivalent, or a full class load, or its equivalent, for which the teacher is employed as determined by the governing board.

~~10.~~ 11. "Group A" means educational programs for career exploration, a specific learning disability, an emotional disability, mild mental retardation, remedial education, a speech/language impairment, DEVELOPMENTAL DELAY, homebound, bilingual, ~~preschool moderate delay, preschool speech/language delay,~~ other health impairments and gifted pupils.

~~11.~~ 12. "Group B" means educational improvements for pupils in kindergarten programs and grades one through three, educational programs for autism, a hearing impairment, moderate mental retardation, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairments, preschool severe delay, severe mental retardation and emotional disabilities for school age pupils enrolled in private special education programs or in school district programs for children with severe disabilities or visual impairment and English learners enrolled in a program to promote English language proficiency pursuant to section 15-752.

~~12.~~ 13. "HI" means programs for pupils with hearing impairment.

~~13.~~ 14. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. Homebound or hospitalized includes a student who is unable to attend school for a period of less than three months due to a pregnancy if a competent medical doctor, after an examination,

1 certifies that the student is unable to attend regular classes due to risk to
2 the pregnancy or to the student's health.
3 ~~14.~~ 15. "K" means kindergarten programs.
4 ~~15.~~ 16. "K-3" means kindergarten programs and grades one through
5 three.
6 ~~16.~~ 17. "MD-R, A-R and SMR-R" means resource programs for pupils with
7 multiple disabilities, autism and severe mental retardation.
8 ~~17.~~ 18. "MD-SC, A-SC and SMR-SC" means self-contained programs for
9 pupils with multiple disabilities, autism and severe mental retardation.
10 ~~18.~~ 19. "MDSSI" means a program for pupils with multiple disabilities
11 with severe sensory impairment.
12 ~~19.~~ 20. "MOMR" means programs for pupils with moderate mental
13 retardation.
14 ~~20.~~ 21. "OI-R" means a resource program for pupils with orthopedic
15 impairments.
16 ~~21.~~ 22. "OI-SC" means a self-contained program for pupils with
17 orthopedic impairments.
18 ~~22.~~ 23. "PSD" means preschool programs for children with disabilities
19 as provided in section 15-771.
20 ~~23.~~ 24. "P-SD" means programs for children who meet the definition of
21 preschool severe delay as provided in section 15-771.
22 ~~24.~~ 25. "Qualifying tax rate" means the qualifying tax rate specified
23 in section 15-971 applied to the assessed valuation used for primary property
24 taxes.
25 ~~25.~~ 26. "Small isolated school district" means a school district which
26 meets all of the following:
27 (a) Has a student count of fewer than six hundred in kindergarten
28 programs and grades one through eight or grades nine through twelve.
29 (b) Contains no school which is fewer than thirty miles by the most
30 reasonable route from another school, or, if road conditions and terrain make
31 the driving slow or hazardous, fifteen miles from another school which
32 teaches one or more of the same grades and is operated by another school
33 district in this state.
34 (c) Is designated as a small isolated school district by the
35 superintendent of public instruction.
36 ~~26.~~ 27. "Small school district" means a school district which meets
37 all of the following:
38 (a) Has a student count of fewer than six hundred in kindergarten
39 programs and grades one through eight or grades nine through twelve.
40 (b) Contains at least one school which is fewer than thirty miles by
41 the most reasonable route from another school which teaches one or more of
42 the same grades and is operated by another school district in this state.
43 (c) Is designated as a small school district by the superintendent of
44 public instruction.

~~27.~~ 28. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

~~28.~~ 29. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

~~29.~~ 30. "VI" means programs for pupils with visual impairments.

~~30.~~ 31. "Voc. Ed." means career and technical education and vocational education programs, as defined in section 15-781.

Sec. 30. Section 15-902, Arizona Revised Statutes, is amended to read:

15-902. Determination of student count

A. For a common or a unified school district in which the average daily membership through the first one hundred days or two hundred days in session, as applicable, of the current year has exceeded the average daily attendance through the first one hundred days or two hundred days in session, as applicable, of the current year by more than six per cent, the student count shall be determined by an adjusted average daily membership computed by multiplying the actual average daily attendance by one hundred six per cent.

B. For a high school district in which the average daily membership through the first one hundred days in session of the current year exceeds the average daily attendance through the first one hundred days in session of the current year by more than eight and one-half per cent, the student count shall be determined by an adjusted average daily membership computed by multiplying the actual average daily attendance by one hundred eight and one-half per cent. If the high school district which utilized adjusted average daily membership pursuant to this subsection does not qualify for equalization assistance as provided by section 15-971, the computation of additional state aid for education as provided in section 15-972 for that district shall not include in the primary property tax rate the amount of primary property taxes necessary to fund an amount computed as follows:

1. Determine the revenue control limit, capital outlay revenue limit and soft capital allocation using the adjusted average daily membership.

2. Add the amounts determined in paragraph 1 of this subsection.

3. Determine the revenue control limit, capital outlay revenue limit and soft capital allocation using a student count computed by multiplying the actual average daily attendance by one hundred six per cent.

4. Add the amounts determined in paragraph 3 of this subsection.

5. Subtract the sum determined under paragraph 4 of this subsection from the sum determined under paragraph 2 of this subsection.

C. A school district required to utilize adjusted average daily membership as provided in this section may apply to the department of education for a further adjustment if student absences result from any of the following reasons:

1. Widespread illness for any period of three consecutive days or more.

2. Adverse weather conditions for any period of three consecutive days or more.

3. Concerted refusal by students to attend classes for any period of three consecutive days of more.

4. Threats of violence against school property, school personnel or students for any period of one day or more.

5. SCHOOL CLOSURE DUE TO SITUATIONS AFFECTING THE SAFETY OF PERSONS OR PROPERTY RESULTING FROM FIRE, FLOODING OR FLOODWATER, AN EARTHQUAKE, A HAZARDOUS MATERIAL EVENT OR OTHER CAUSES IF APPROVED BY THE DEPARTMENT OF EDUCATION.

D. All student absence figures shall be submitted by the school district on a school by school basis to the department of education pursuant to subsection C of this section and shall be certified by the governing board of the school district. The department of education shall review the materials and documents submitted and may, if it determines that the absences resulted from the reasons prescribed by this section, further adjust the average daily membership figures of the school district.

E. A school district required to use adjusted average daily membership as provided in this section may apply to the department of education for a further adjustment due to absences of pupils with chronic health problems as defined in section 15-346 if the school district is providing services to the pupils during their absence from school.

F. A pupil is enrolled if the pupil is currently registered in the school district. In addition, the uniform system of financial records shall contain procedures to ensure that enrollment is determined by all school districts on a uniform basis.

G. Any determination of average daily attendance and average daily membership shall be based on the records of the superintendent of public instruction.

H. For school districts which maintain an approved year-round school year operation program, an educational program offered on the basis of a four day school week or an alternative kindergarten program offered on the basis of a three day school week, student count shall be based on a computation as prescribed by the superintendent of public instruction on the one hundred seventy-five days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled.

I. School districts shall be required to record electronically membership and attendance on a school by school basis for each day school is in session. Records shall be certified and forwarded to the department of education electronically within twelve days after the first forty days in session and within twelve days after the first one hundred days in session.

J. Absences shall be made part of the attendance record and shall be forwarded electronically by the school district on a school by school basis with other records to the department of education.

K. If a new school district is formed by the subdivision of an existing school district as provided in section 15-458, the new school district shall determine its student count, the approved daily route mileage and the number of eligible students transported on the basis of where pupils reside within the boundaries of the new school district when computing assistance as provided in this chapter. The school district shall determine its student count, the approved daily route mileage and the number of eligible students transported on the basis of where pupils reside within the diminished boundaries of the school district when computing a school district budget limit and assistance as provided in this chapter. The combined student count in the new districts may not exceed the student count of the school district which would have existed if the subdivision had not occurred.

Sec. 31. Section 15-905, Arizona Revised Statutes, is amended to read:

15-905. School district budgets; notice; adoption; aggregate budget limit; summary; adjustments; definition

A. Not later than July 5 of each year or no later than the publication of notice of the public hearing and board meeting as required by this section, the governing board of each school district shall prepare and furnish to the superintendent of public instruction and the county school superintendent, unless waived by the county school superintendent, a proposed budget in electronic format for the budget year, which shall contain the information and be in the form as provided by the department of education. The proposed budget shall include the following:

1. The total amount of revenues from all sources that was necessary to meet the school district's budget for the current year.

2. The total amount of revenues by source that will be necessary to meet the proposed budget of the school district, excluding property taxes. The governing board shall prepare the proposed budget and a summary of the proposed budget. Both documents shall be kept on file at the school district office and shall be made available to the public upon request. The auditor general in conjunction with the department of education shall prescribe the form of the summary of the proposed budget for use by governing boards. School district governing boards may include in the proposed budget any items or amounts which are authorized by legislation filed with the secretary of state and which will become effective during the budget year. If subsequent events prevent the legislation from becoming effective, school district governing boards must reduce their budgets by the amounts budgeted pursuant to the legislation which did not become effective.

B. The governing board of each school district shall prepare a notice fixing a time not later than July 15 and designating a public place within each school district at which a public hearing and board meeting shall be held. The governing board shall present the proposed budget for consideration of the residents and the taxpayers of the school district at such hearing and meeting.

C. The governing board of each school district shall publish or mail, prior to the hearing and meeting, a copy of the proposed budget or the summary of the proposed budget and, in addition, a notice of the public hearing and board meeting no later than ten days prior to the meeting. The proposed budget and the summary of the proposed budget shall contain the percentage of increase or decrease in each budget category of the proposed budget as compared to each category of the budget for the current year. Notification shall be either by publication in a newspaper of general circulation within the school district in which the size of the newspaper print shall be at least eight-point type, by electronic transmission of the information to the department of education for posting on the department's web site or by mailing the information to each household in the school district. The cost of publication, web site posting or mailing shall be a charge against the school district. The publisher's affidavit of publication shall be filed by the governing board with the superintendent of public instruction within thirty days after publication. If the budget or proposed budget and notice are posted on a web site maintained by the department of education or mailed, the board shall file an affidavit with the superintendent of public instruction within thirty days after the mailing or the date that the information is posted on the web site. If a truth in taxation notice and hearing is required under section 15-905.01, the governing board may combine the notice and hearing under this section with the truth in taxation notice and hearing.

D. At the time and place fixed in the notice, the governing board shall hold the public hearing and present the proposed budget to the persons attending the hearing. Upon request of any person, the governing board shall explain the budget, and any resident or taxpayer of the school district may protest the inclusion of any item. A governing board member who has a substantial interest, as defined in section 38-502, in a specific item in the school district budget shall refrain from voting on the specific item. A governing board member may without creating a conflict of interest participate in adoption of a final budget even though the member may have substantial interest in specific items included in the budget.

E. Immediately following the public hearing the president shall call to order the governing board meeting for the purpose of adopting the budget. The governing board shall adopt the budget which shall not exceed the general budget limit, the unrestricted capital budget limit or the soft capital allocation limit, making such deductions as it sees fit but making no additions to the proposed budget total for maintenance and operations or capital outlay, and shall enter the budget as adopted in its minutes. Not later than July 18, the budget as finally adopted shall be filed by the governing board with the county school superintendent who shall immediately transmit a copy to the board of supervisors. Not later than July 18, the budget as finally adopted shall be submitted electronically to the superintendent of public instruction. On or before October 30, the

superintendent of public instruction shall review the budget and notify the governing board if the budget is in excess of the general budget limit, the unrestricted capital budget limit or the soft capital allocation limit. If the governing board receives notification that the budget is in excess of the general budget limit, the unrestricted capital budget limit or the soft capital allocation limit by fewer than one thousand dollars, the governing board shall adjust the budget and expenditures so as not to exceed the general budget limit, the unrestricted capital budget limit or the soft capital allocation limit for the current year. If the governing board receives notification that the budget is in excess of the general budget limit, the unrestricted capital budget limit or the soft capital allocation limit by one thousand dollars or more, it shall on or before December 15, after it gives notice and holds a public meeting in a similar manner as provided in subsections C and D of this section, adopt a revised budget for the current year which shall not exceed the general budget limit, the unrestricted capital budget limit or the soft capital allocation limit. On or before December 18, the governing board shall file the revised budget which it adopts with the county school superintendent who shall immediately transmit a copy to the board of supervisors. Not later than December 18, the budget as revised shall be submitted electronically to the superintendent of public instruction. School districts that are subject to section 15-914.01 are not required to send a copy of revised budgets to the county school superintendent. Procedures for adjusting expenditures or revising the budget shall be as prescribed in the uniform system of financial records.

F. The governing board of each school district may budget for expenditures within the school district budget as follows:

1. Amounts within the general budget limit, as provided in section 15-947, subsection C, may only be budgeted in the following sections of the budget:

(a) The maintenance and operation section.

(b) The capital outlay section.

2. Amounts within the unrestricted capital budget limit, as provided in section 15-947, subsection D, may only be budgeted in the unrestricted capital outlay subsection of the budget. Monies received pursuant to the unrestricted capital budget limit shall be placed in the unrestricted capital outlay fund. The monies in the fund are not subject to reversion.

3. The soft capital allocation limit, as provided in section 15-947, subsection E, may only be budgeted in the soft capital allocation subsection of the budget.

G. The governing board may authorize the expenditure of monies budgeted within the maintenance and operation section of the budget for any subsection within the section in excess of amounts specified in the adopted budget only by action taken at a public meeting of the governing board and if the expenditures for all subsections of the section do not exceed the amount budgeted as provided in this section. Until June 30, 1999, the governing

board may authorize the expenditure of monies to exceed the budgeted expenditures of the capital outlay section of the budget only by action taken at a public meeting of the governing board and if monies are available in the reserve.

H. The aggregate budget limit is the sum of the following:

1. The general budget limit as determined in section 15-947 for the budget year.

2. The unrestricted capital budget limit as determined in section 15-947 for the budget year.

3. The soft capital allocation limit for the budget year as determined in section 15-947.

4. Federal assistance, excluding ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies.

I. School districts which overestimated tuition revenues as provided in section 15-947, subsection C, paragraph 2 shall adjust the general budget limit and expenditures based upon tuition revenues for attendance of nonresident pupils during the current fiscal year. School districts which underestimated tuition revenues may adjust their budgets prior to May 15 based upon tuition revenues for attendance of nonresident pupils during the current fiscal year. School districts which overestimated revenues as provided in section 15-947, subsection C, paragraph 2, subdivision (a), items (iii), (iv) and (v) and subdivision (d) shall adjust the general budget limit and expenditures based on actual revenues during the current fiscal year. School districts which underestimated such revenues may adjust their budgets before May 15 based on actual revenues during the current fiscal year. Procedures for completing adjustments shall be as prescribed in the uniform system of financial records. Not later than May 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction.

J. A common school district not within a high school district whose estimated tuition charge for high school pupils exceeds the actual tuition charge for high school pupils shall adjust the general budget limit and expenditures based on the actual tuition charge. Not later than May 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction. A common school district not within a high school district whose estimated tuition charge for high school pupils is less than the actual tuition charge for high school pupils may adjust its budget before May 15 based on the actual tuition charge. Procedures for completing adjustments shall be as prescribed in the uniform system of financial records. If the adjusted general budget limit requires an adjustment of state aid and if the adjustment to state aid is not made in the current year, the superintendent of public instruction shall adjust by August 15 of the succeeding fiscal year the apportionment of state aid to the school district to correct any overpayment or underpayment of state aid received during the current year.

K. The governing board may include ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance allocated for children with disabilities, children with specific learning disabilities, children residing on Indian lands and children residing within the boundaries of an accommodation school that is located on a military reservation and that is classified as a heavily impacted local educational agency pursuant to 20 United States Code section 7703 which is in addition to basic assistance when determining the general budget limit as prescribed in section 15-947, subsection C. The increase in the general budget limit for children residing within the boundaries of an accommodation school that is located on a military reservation and that is classified as a heavily impacted local education agency shall equal the dollar amount calculated pursuant to 20 United States Code section 7703(b)(2). The governing board may adjust before May 15 the budget for the current year based on any adjustments which result in increases over the amount estimated by the superintendent of public instruction for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance for such pupils for the fiscal year preceding the current year. The governing board shall adjust before May 15 the budget for the current year based on any adjustments which result in decreases in the amount estimated by the superintendent of public instruction for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance for such pupils for the fiscal year preceding the current year. Not later than May 18, the budget as adjusted shall be submitted electronically to the superintendent of public instruction. Procedures for complying with this subsection shall be as prescribed in the uniform system of financial records.

L. The DEPARTMENT OF EDUCATION SHALL NOTIFY THE state board of education ~~shall hold a hearing~~ if expenditures by any school district exceed the general budget limit prescribed in section 15-947, subsection C, the unrestricted capital budget limit, the soft capital allocation limit prescribed in section 15-947, subsection E, the school plant fund limits prescribed in section 15-1102, subsection B, the maintenance and operation section of the budget or the capital outlay section of the budget. If the expenditures of any school district exceed these limits or sections of the budget without authorization as provided in section 15-907, AND IF THE STATE BOARD OF EDUCATION DETERMINES THAT THE EQUALIZATION ASSISTANCE FOR EDUCATION RECEIVED BY THE SCHOOL DISTRICT AS PROVIDED IN SECTION 15-971 DOES NOT CONFORM WITH STATUTORY REQUIREMENTS, the state board of education shall reduce the state aid for equalization assistance for education for the school district computed as provided in section 15-971 during the fiscal year subsequent to the fiscal year in which the excess ~~expenditures were made~~ EQUALIZATION ASSISTANCE FOR EDUCATION WAS RECEIVED by an amount equal to the excess ~~expenditures~~ EQUALIZATION ASSISTANCE FOR EDUCATION, except that in case of hardship to the school district, the superintendent of public instruction may approve reductions partly in the first subsequent year and

1 partly in the second subsequent year. IF THE STATE BOARD OF EDUCATION
2 DETERMINES THAT THE EQUALIZATION ASSISTANCE FOR EDUCATION RECEIVED BY THE
3 SCHOOL DISTRICT CONFORMS WITH STATUTORY REQUIREMENTS, THE STATE BOARD OF
4 EDUCATION SHALL NOT REDUCE THE DISTRICT'S EQUALIZATION ASSISTANCE FOR
5 EDUCATION PURSUANT TO THIS SUBSECTION BUT THE DISTRICT SHALL REDUCE THE
6 BUDGET LIMITS AS REQUIRED IN SUBSECTION M OF THIS SECTION. A SCHOOL DISTRICT
7 THAT DISAGREES WITH THE DEPARTMENT OF EDUCATION'S DETERMINATION REGARDING AN
8 EXCESS EXPENDITURE UNDER THIS SUBSECTION MAY REQUEST A HEARING BEFORE THE
9 STATE BOARD OF EDUCATION.
10 M. The governing board of a school district shall reduce the general
11 budget limit, the unrestricted capital budget limit or the soft capital
12 allocation limit, for the year subsequent to the year in which the
13 expenditures were in excess of the applicable limit or section of the budget
14 by the amount determined in subsection L of this section, except that in case
15 of hardship to the school district, the superintendent of public instruction
16 may approve reductions partly in the first subsequent year and partly in the
17 second subsequent year. The reduction in the limit is applicable to each
18 school district which has exceeded the general budget limit, the unrestricted
19 capital budget limit, the soft capital allocation limit or a section of the
20 budget even if the reduction exceeds the state aid for equalization
21 assistance for education for the school district.
22 N. Except as provided in section 15-916, no expenditure shall be made
23 by any school district for a purpose not included in the budget or in excess
24 of the aggregate budget limit prescribed in this section, except that if no
25 budget has been adopted, from July 1 to July 15 the governing board may make
26 expenditures if the total of the expenditures does not exceed ten per cent of
27 the prior year's aggregate budget limit. Any expenditures made from July 1
28 to July 15 and prior to the adoption of the budget shall be included in the
29 total expenditures for the current year. No expenditure shall be made and no
30 debt, obligation or liability shall be incurred or created in any year for
31 any purpose itemized in the budget in excess of the amount specified for the
32 item irrespective of whether the school district at any time has received or
33 has on hand funds in excess of those required to meet the expenditures,
34 debts, obligations and liabilities provided for under the budget except
35 expenditures from cash controlled funds as defined by the uniform system of
36 financial records and except as provided in section 15-907 and subsection G
37 of this section. This subsection does not prohibit any school district from
38 prepaying insurance premiums or magazine subscriptions, or from prepaying any
39 item which is normally prepaid in order to procure the service or to receive
40 a discounted price for the service, as prescribed by the uniform system of
41 financial records.
42 O. The governing board of a school district which is classified as a
43 heavily impacted school district having twenty per cent or more pupils
44 pursuant to 20 United States Code section 238(d)1(A) may determine its
45 eligibility to increase the amount that may be included in determining the

general budget limit as provided in subsection K of this section and may increase the amount as follows:

1. For fiscal year 1988-1989:

(a) Multiply one thousand ninety-four dollars by the number of children with disabilities or children with specific learning disabilities, excluding children who also reside on Indian lands, reported to the division of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

(b) Multiply five hundred forty-seven dollars by the number of children residing on Indian lands, excluding children who have disabilities or also have specific learning disabilities, reported to the division of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

(c) Multiply one thousand nine hundred fourteen dollars by the number of children residing on Indian lands who have disabilities or also have specific learning disabilities reported to the division of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

(d) Add the amounts determined in subdivisions (a) through (c).

(e) If the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance as provided in subsection K of this section is less than the sum determined in subdivision (d) of this paragraph, the district is eligible to use the provisions of this subsection.

2. For budget years after 1988-1989, use the provisions of paragraph 1 of this subsection, but increase each dollar amount by the growth rate for that year as prescribed by law, subject to appropriation and use the number of children reported in the appropriate category for the current fiscal year.

3. If the district is eligible to use the provisions of this subsection, subtract the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance determined in subsection K of this section from the sum determined in paragraph 1, subdivision (d) of this subsection. The difference is the increase in the amount that may be included in determining the general budget limit as provided in subsection K of this section, if including this amount does not increase the district's primary tax rate for the budget year. If the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance determined in subsection K of this section is adjusted for the current year, the increase determined in this paragraph shall be recomputed using the adjusted amount and the recomputed increase shall be reported to the department of education by May 15 on a form prescribed by the department of education.

4. If a district uses the provisions of this subsection, the district is not required to adjust its budget for the current year based on adjustments in the estimated amount of ~~P.L. 81-874~~ TITLE VIII OF THE

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance as provided in subsection K of this section.

P. A school district, except for an accommodation school, which applies for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance during the current year may budget an amount for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs for the budget year. The amount budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs is exempt from the revenue control limit and may not exceed an amount determined for the budgeted year as follows:

1. Determine the minimum cost. The minimum cost for fiscal year 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior year increased by the growth rate as prescribed by law, subject to appropriation.

2. Determine the hourly rate. The hourly rate for fiscal year 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and thereafter, the hourly rate is the hourly rate for the prior year increased by the growth rate as prescribed by law, subject to appropriation.

3. Determine the ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 revenues available by subtracting the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance used to increase the general budget limit as provided in subsections K and O of this section for the current fiscal year from the total amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 revenues received in the current fiscal year.

4. Determine the total number of administrative hours as follows:

(a) Determine the sum of the following:

(i) 1.00 hours for each high impact pupil who is not disabled or does not have specific learning disabilities.

(ii) 1.25 hours for each high impact pupil who is disabled or has specific learning disabilities.

(iii) 0.25 hours for each low impact pupil who is not disabled or does not have specific learning disabilities.

(iv) 0.31 hours for each low impact pupil who is disabled or has specific learning disabilities.

(b) For the purposes of this paragraph:

(i) "High impact pupil" means a pupil who resides on Indian lands or a pupil who resides on federal property or in low rent housing and whose parent is employed on federal property or low rent housing property or is on active duty in uniformed service, as provided in ~~P.L. 81-874, section 3(a)~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, SECTION 8003(a) (20 UNITED STATES CODE SECTION 7703) and as reported in the application for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance in the current year.

(ii) "Low impact pupil" means a pupil who resides on nonfederal property and has a parent who is employed on federal property or low rent housing property or is on active duty in a uniformed service or a pupil who resides on federal property or in low rent housing and who does not have a parent who is employed on federal property or low rent housing property or is on active duty in uniformed service, as provided in ~~P.L. 81-874, section 3(b)~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, SECTION 8003(a) (20 UNITED STATES CODE SECTION 7703) and as reported in the application for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance in the current year.

5. Multiply the total number of administrative hours determined in paragraph 4 of this subsection by the hourly rate determined in paragraph 2 of this subsection.

6. Determine the greater of the minimum cost determined in paragraph 1 of this subsection or the product determined in paragraph 5 of this subsection.

7. Add to the amount determined in paragraph 6 of this subsection the amount, if any, to be expended by the school district in the budget year through an intergovernmental agreement with other school districts or the department of education to provide ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 technical assistance to participating districts.

8. Determine the lesser of the amount determined in paragraph 7 of this subsection or the revenues available as determined in paragraph 3 of this subsection.

9. The amount determined in paragraph 8 of this subsection is the maximum amount which may be budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs for the budget year as provided in this subsection.

10. If the governing board underestimated the amount that may be budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, SECTION 8007 administrative costs for the current year, the board may adjust the general budget limit and the budget before May 15. If the governing board overestimated the amount that may be budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs for the current year, the board shall adjust the general budget limit and the budget before May 15.

Q. If a school district governing board has adopted a budget for a fiscal year based on forms and instructions provided by the auditor general and the department of education for that fiscal year and if, as a result of the enactment or nonenactment of proposed legislation after May 1 of the previous fiscal year, the budget is based on incorrect limits, does not include items authorized by law or does not otherwise conform with law, the governing board may revise its budget at a public hearing on or before September 15 to conform with the law. Not later than September 18, the

budget as adjusted shall be submitted electronically to the superintendent of public instruction. If the governing board does not revise the budget on or before September 15 and if the budget includes any items not authorized by law or if the budget exceeds any limits, the governing board shall adjust or revise the budget as provided in subsection E of this section.

R. For the purposes of this section, "~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance" means, for the current year, an amount equal to the final determination of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance for the fiscal year preceding the current year as confirmed by the division of impact aid, United States department of education or, if a final determination has not been made, the amount estimated by the superintendent of public instruction as confirmed by the division of impact aid, United States department of education and, for the budget year, an amount equal to the determination of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance for the fiscal year preceding the budget year as estimated by the superintendent of public instruction.

Sec. 32. Section 15-915, Arizona Revised Statutes, is amended to read:

15-915. Correction of state aid or budget limit errors; definition

A. If the superintendent of public instruction determines that the calculation of state aid for a school district or charter school or the calculation of the school district's or charter school's budget limits within the previous three years did not conform with statutory requirements, the superintendent shall require correction of the errors as follows:

1. Corrections may be made in the current year or in the budget year, except that in case of hardship to the school district, the superintendent may approve corrections partly in one year and partly in the year after that year.

2. Errors in the calculation of state aid shall be corrected by increasing or decreasing the state aid to the school district or charter school in the year or years in which the correction is made.

3. Errors in the calculation of the school district's or charter school's budget limits shall be corrected at a public hearing by requiring the governing board to reduce or by allowing it to increase its budget by the amount of the correction to be made that year. Overbudgeting errors corrected as provided in this paragraph are exempt from the provisions of section 15-905, subsections L and M. Not later than three days after the hearing and correction, the budget as revised shall be submitted electronically to the superintendent of public instruction. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO REQUIRE A DECREASE IN STATE AID NOT OTHERWISE REQUIRED BY PARAGRAPH 2 OF THIS SUBSECTION.

B. Subject to the review by the joint legislative budget committee, the superintendent of public instruction shall adjust state aid for a school district in the current year if the governing board of a school district

requests the recalculation of state aid for a prior year due to a change in assessed valuation that occurred as the result of a judgment in accordance with section 42-16213.

C. Notwithstanding subsection A of this section, a school district or charter school may not make upward revisions to its average daily membership counts for a particular school year after June 30 of the subsequent school year.

D. For the purposes of this section, "state aid":

1. For school districts means state aid as determined in section 15-971 and additional state aid as determined in section 15-972.

2. For charter schools means state aid as determined in section 15-185.

Sec. 33. Section 15-943, Arizona Revised Statutes, is amended to read:

15-943. Base support level

The base support level for each school district shall be computed as follows:

1. The following support level weights shall be used in paragraph 2, subdivision (a) OF THIS SECTION for the following school districts:

(a) For school districts whose student count in kindergarten programs and grades one through eight is classified in column 1 of this subdivision, the support level weight for kindergarten programs and grades one through eight is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

Column 1 Student Count	Column 2 Support Level Weight For Small Isolated School Districts	Column 3 Support Level Weight For Small School Districts
1-99	1.559	1.399
100-499	1.358 + [0.0005 x (500 - student count)]	1.278 + [0.0003 x (500 - student count)]
500-599	1.158 + [0.002 x (600 - student count)]	1.158 + [0.0012 x (600 - student count)]

(b) For school districts whose student count in grades nine through twelve is classified in column 1 of this subdivision, the support level weight for grades nine through twelve is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

Column 1 Student Count	Column 2 Support Level Weight For Small Isolated School Districts	Column 3 Support Level Weight For Small School Districts
1-99	1.669	1.559
100-499	1.468 + [0.0005 x (500 - student count)]	1.398 + [0.0004 x (500 - student count)]

500-599	1.268 + [0.002 x (600 - student count)]	1.268 + [0.0013 x (600 - student count)]

2. Subject to paragraph 1 OF THIS SECTION, determine the weighted student count as follows:

(a)

Grade	Base		Group A		Support Level Weight		Student Count		Weighted Student Count
PSD	1.000	+	0.450	=	1.450	x	_____	=	_____
K-8	1.000	+	0.158	=	1.158	x	_____	=	_____
9-12	1.163	+	0.105	=	1.268	x	_____	=	_____
							Subtotal	A	_____

(b)

Funding Category	Support Level Weight		Student Count		Weighted Student Count
HI	4.771	x	_____	=	_____
K, for fiscal year 2006-2007	0.835	x	_____	=	_____
K, for fiscal year 2007-2008 and each fiscal year thereafter	1.352	x	_____	=	_____
K-3	0.060	x	_____	=	_____
ELL	0.115	x	_____	=	_____
MD-R, A-R and SMR-R	6.024	x	_____	=	_____
MD-SC, A-SC and SMR-SC	5.833	x	_____	=	_____
MD-SSI	7.947	x	_____	=	_____
OI-R	3.158	x	_____	=	_____
OI-SC	6.773	x	_____	=	_____
~~P-SD~~	~~3.595~~	~~x~~	~~_____~~	~~=~~	~~_____~~
~~ED, MIMR, SLD, SLI and OHI~~	~~0.003~~	~~x~~	~~_____~~	~~=~~	~~_____~~
P-SD	3.595	x	_____	=	_____
DD, ED, MIMR, SLD, SLI AND OHI	0.003	x	_____	=	_____
ED-P	4.822	x	_____	=	_____
MOMR	4.421	x	_____	=	_____
VI	4.806	x	_____	=	_____
		Subtotal		B	_____

(c) Total of subtotals A and B: _____

3. Multiply the total determined in paragraph 2 OF THIS SECTION by the base level.

4. Multiply the teacher experience index of the district or 1.00, whichever is greater, by the product obtained in paragraph 3 OF THIS SECTION.

5. Add the amount determined in section 15-910.04.

Sec. 34. Section 15-947, Arizona Revised Statutes, as amended by Laws 2008, chapter 207, section 4, is amended to read:

15-947. Revenue control limit; district support level; general budget limit; unrestricted total capital budget limit; soft capital allocation limit

A. The revenue control limit for a school district is equal to the sum of the base revenue control limit determined in section 15-944, THE AMOUNT DETERMINED IN SECTION 15-910.04 and the transportation revenue control limit determined in section 15-946.

B. The district support level for a school district is equal to the sum of the base support level determined in section 15-943 and the transportation support level determined in section 15-945.

C. The general budget limit for each school district, for each fiscal year, is the sum of the following:

1. The maintenance and operations portion of the revenue control limit for the budget year.

2. The maintenance and operation portion of the following amounts:

(a) Amounts that are fully funded by revenues other than a levy of taxes upon the taxable property within the school district, as listed below:

(i) Amounts budgeted as the budget balance carryforward as provided in section 15-943.01.

(ii) Tuition revenues for attendance of nonresident pupils.

(iii) State assistance as provided in section 15-976.

(iv) Special education revenues as provided in section 15-825, subsection D and section 15-1204.

(v) ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance determined for children with disabilities, children with specific learning disabilities, children residing on Indian lands and children residing within the boundaries of an accommodation school that is located on a military reservation and that is classified as a heavily impacted local educational agency pursuant to 20 United States Code section 7703 as provided in section 15-905, subsections K and O.

(vi) ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs as provided in section 15-905, subsection P.

(vii) State assistance for excess tuition as provided in section 15-825.01.

(viii) Amounts received from the state board of education pursuant to section 15-973.01.

(ix) TRANSPORTATION REVENUES FOR ATTENDANCE OF NONRESIDENT PUPILS.

(b) Amounts approved pursuant to an override election as provided in section 15-481 for the applicable fiscal year.

(c) Expenditures for excess utility costs as provided in section 15-910.

(d) Amounts authorized by the county school superintendent pursuant to section 15-974, subsection B.

(e) Expenditures for complying with a court order of desegregation as provided in section 15-910.

(f) Expenditures for the bond issues portion of the cost of tuition as provided in section 15-910.

(g) Interest on registered warrants or tax anticipation notes as provided in section 15-910.

(h) Amounts budgeted for a jointly owned and operated career and technical education and vocational education center as provided in section 15-910.01.

3. The maintenance and operations portion of the capital outlay revenue limit for the budget year.

4. Any other budget item that is budgeted in the maintenance and operation section of the budget and that is specifically exempt from the revenue control limit or the capital outlay revenue limit.

D. The unrestricted capital budget limit, for each school district for each fiscal year, is the sum of the following:

1. The federal impact adjustment as determined in section 15-964 for the budget year.

2. Any other budget item that is budgeted in the capital outlay section of the budget and that is specifically exempt from the capital outlay revenue limit.

3. The UNRESTRICTED capital portion of the amounts contained in subsection C~~, paragraph 2~~ of this section.

4. The unexpended budget balance in the unrestricted capital outlay fund from the previous fiscal year.

5. The net interest earned in the unrestricted capital outlay fund the previous fiscal year.

6. THE BUDGETED AMOUNT AS APPROVED AND DETERMINED PURSUANT TO SECTION 15-962, SUBSECTION F.

E. The soft capital allocation limit for each school district for each fiscal year is the sum of the following:

1. The soft capital allocation for the budget year.

2. The unexpended budget balance in the soft capital allocation fund from the previous fiscal year.

3. The net interest earned in the soft capital allocation fund the previous fiscal year.

Sec. 35. Repeal

Section 15-947, Arizona Revised Statutes, as amended by Laws 2008, chapter 287, section 14, is repealed.

Sec. 36. Section 15-947.01, Arizona Revised Statutes, is amended to read:

15-947.01. Revenue control limit; general budget limit; total capital budget limit for joint technological education districts

A. The revenue control limit for a joint technological education district is equal to the base support level determined in section 15-943.02 and the amount determined in section 15-910.04.

B. The general budget limit for each joint technological education district, for each fiscal year, is the sum of the following:

1. The revenue control limit for the budget year.

2. The capital outlay revenue limit for the budget year.

3. Tuition revenues for attendance of nonresident pupils.

4. ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance determined for children with disabilities, children with specific learning disabilities and children residing on Indian lands as provided in section 15-905, subsections K and O.

5. Expenditures for excess utility costs as provided in section 15-910.

C. The unrestricted capital budget limit for each joint technological education district for the budget year is as provided in section 15-947, subsection D.

D. The soft capital allocation limit for each joint technological education district for the budget year is as provided in section 15-947, subsection E.

Sec. 37. Section 15-961, Arizona Revised Statutes, is amended to read:

15-961. Capital outlay revenue limit; growth rate

A. A capital outlay revenue limit per student count is established for fiscal year ~~1984-1985~~ 2009-2010 as follows:

1. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF LESS THAN ONE HUNDRED FOR KINDERGARTEN PROGRAMS AND GRADES ONE THROUGH EIGHT, TWO HUNDRED SEVENTY-TWO DOLLARS SEVENTY-FIVE CENTS. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF ONE HUNDRED OR MORE AND LESS THAN SIX HUNDRED for kindergarten programs and grades one through eight multiply ~~one hundred fifty-five dollars~~ ONE HUNDRED NINETY-FOUR DOLLARS NINETY-FIVE CENTS by the weight which corresponds to the student count for kindergarten programs and grades one through eight for the school district as provided in section 15-943, paragraph 1, subdivision (a), column 3. For a school district with a student count of six hundred or more in kindergarten programs and grades one through eight, ~~multiply one hundred fifty-five dollars by 1.158~~ THE LIMIT IS TWO HUNDRED TWENTY-FIVE DOLLARS SEVENTY-SIX CENTS.

2. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF LESS THAN ONE HUNDRED FOR GRADES NINE THROUGH TWELVE, THREE HUNDRED TWENTY-NINE DOLLARS FORTY-ONE CENTS. FOR SCHOOL DISTRICTS WITH A STUDENT COUNT OF ONE HUNDRED OR MORE AND LESS THAN SIX HUNDRED for grades nine through twelve, multiply ~~one hundred~~

~~sixty-eight dollars~~ TWO HUNDRED ELEVEN DOLLARS TWENTY-NINE CENTS by the weight which corresponds to the student count for grades nine through twelve for the school district as provided in section 15-943, paragraph 1, subdivision (b), column 3. For a school district with a student count of six hundred or more in grades nine through twelve, ~~multiply one hundred sixty-eight dollars by 1.268~~ THE LIMIT IS TWO HUNDRED SIXTY-SEVEN DOLLARS NINETY-FOUR CENTS.

3. For programs for preschool children with disabilities, ~~multiply one hundred fifty-five dollars by 1.158~~ TWO HUNDRED TWENTY-FIVE DOLLARS SEVENTY-SIX CENTS.

B. For fiscal year ~~1985-1986~~ 2009-2010 and each year thereafter, the capital outlay revenue limit prescribed in subsection A of this section shall be adjusted by the growth rate prescribed by law, subject to appropriation.

C. For fiscal year 1985-1986 and each year thereafter, the capital outlay revenue limit for a school district shall be computed as follows:

1. Select the applicable capital outlay revenue limit or limits per student count for the school district.

2. Multiply the amount or amounts selected in paragraph 1 of this subsection by the appropriate student count of the school district. The student count of the school district shall not include any pupils in a charter school sponsored by the district pursuant to section 15-185, subsection A, paragraph 3.

3. If a school district's student count used for the budget year is greater than one hundred five per cent of the student count used for the current year's budget, increase the adjusted capital outlay revenue limit determined in paragraph 2 of this subsection by the actual percentage increase in the school district's student count.

D. For fiscal year ~~1985-1986~~ 2009-2010 and each year thereafter, an amount for the purchase of required textbooks and related printed subject matter materials shall be used to increase the capital outlay revenue limit for a school district as determined in subsection C, paragraph 2 or 3 of this section, whichever is applicable. For fiscal year ~~1985-1986~~ 2009-2010, ~~the funding level is fifty-seven dollars fifty cents~~ MULTIPLY THE STUDENT COUNT IN GRADES NINE THROUGH TWELVE BY SIXTY-NINE DOLLARS SIXTY-EIGHT CENTS. ~~For fiscal year 1986-1987 and each year thereafter, the funding level is the funding level of the previous year adjusted by the growth rate prescribed by law, subject to appropriation. The amount to be added to the amount in subsection C, paragraph 2 or 3 of this section, whichever is applicable, to determine the capital outlay revenue limit for a school district is computed as follows:~~

~~1. For fiscal year 1985-1986, multiply the student count in grade nine by the funding level for the applicable year as prescribed in this subsection.~~

~~2. For fiscal year 1986-1987, multiply the student count in grades nine and ten by the funding level for the applicable year as prescribed in this subsection.~~

~~3. For fiscal year 1987-1988, multiply the student count in grades nine through eleven by the funding level for the applicable year as prescribed in this subsection.~~

~~4. For fiscal year 1988-1989 and each year thereafter, multiply the student count in grades nine through twelve by the funding level for the applicable year as prescribed in this subsection.~~

Sec. 38. Section 15-962, Arizona Revised Statutes, is amended to read:

15-962. Soft capital allocation

A. A soft capital allocation per student count is established for fiscal year 1999-2000, as follows:

1. For kindergarten programs and grades one through eight, multiply one hundred ninety-four dollars thirty cents by the weight which corresponds to the student count for kindergarten programs and grades one through eight for the school district as provided in section 15-943, paragraph 1, subdivision (a), column 3.

2. For grades nine through twelve, multiply one hundred ninety-four dollars thirty cents by the weight which corresponds to the student count as provided in section 15-943, paragraph 1, subdivision (a), column 3.

3. For a school district with a student count of six hundred or more in kindergarten programs and grades one through eight or grades nine through twelve, multiply one hundred ninety-four dollars thirty cents by 1.158.

4. For programs for preschool children with disabilities, multiply one hundred ninety-four dollars thirty cents by 1.158.

B. Beginning with fiscal year 1999-2000, the soft capital allocation prescribed in subsection A of this section shall be adjusted by the growth rate prescribed by law, subject to appropriation.

C. Beginning in fiscal year 1999-2000, the soft capital allocation for a school district is computed as follows:

1. Select the applicable soft capital allocation per student count for the school district as provided in subsection A of this section.

2. Multiply the amount selected in paragraph 1 of this subsection by the appropriate student count of the school district. The student count of the school district shall not include any pupils in a charter school sponsored by the school district pursuant to section 15-185, subsection A, paragraph 3.

D. A school district shall receive its soft capital allocation in the amount determined in this section from monies appropriated for this purpose to the department of education. Soft capital allocation monies shall only be used for short-term capital items that are required to meet academic adequacy standards such as technology, textbooks, library resources, instructional aids, pupil transportation vehicles, furniture and equipment. School districts shall not use any portion of soft capital allocation monies for

maintenance and operation expenses. School districts may use soft capital allocation monies to meet administrative soft capital purposes after complying with the adequacy standards prescribed in section 15-2011.

E. School districts shall establish a district soft capital allocation fund and shall use the monies only for the purposes prescribed in subsection D of this section. The ending unexpended budget balance in the school district's soft capital allocation fund may be used in following fiscal years for short-term capital items. School districts shall provide to the superintendent of public instruction an itemized accounting on forms provided by the department of education that details the expenditures of soft capital allocation monies at each school in the district. The superintendent of public instruction shall forward a copy of the report to the school facilities board established by section 15-2001.

F. A school district governing board may petition the state board of education for authority to budget and accumulate for school construction, building renovation or soft capital purposes a portion of the prior year's ending cash balance, not to exceed the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies which the school district was entitled to receive in the prior year, as computed by the superintendent of public instruction, if:

1. The governing board filed with the United States department of education division of impact aid an approved application for federal assistance for construction under P.L. 81-815 for the current or budget year and has been advised by the division of impact aid that no federal monies are available to fund its application.

2. The school district has a computed assessed valuation per pupil which is below the median amount computed by the superintendent of public instruction for all school districts.

3. The governing board has used any available revenues to reduce its primary tax rate to zero for any year in which it petitions to budget and accumulate monies received under ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 for school construction purposes.

The state board of education may grant approval to a school district governing board to annually budget in the unrestricted capital outlay section of the budget a portion of the cash balance, not to exceed the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies which the school district was entitled to receive in the prior year as computed by the superintendent of public instruction.

G. The state board of education shall not include in the aggregate expenditures of local revenues as determined in section 15-911 the amount of revenues collected pursuant to the soft capital allocation limit. The amount of revenues collected for the soft capital allocation limit is the capital levy as authorized by law.

Sec. 39. Section 15-964, Arizona Revised Statutes, is amended to read:

15-964. Federal impact adjustment

A. The governing board of a school district may compute a federal impact adjustment to the unrestricted capital budget limit. The maximum amount of the federal impact adjustment is the sum of the following:

1. Twenty-five per cent of the monies received from forest reserve funds by the school district in the prior fiscal year as provided in section 41-736.

2. For a school district that is not an accommodation school, the lesser of:

(a) Twenty-five per cent of the ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 revenues received in the prior fiscal year.

(b) The total amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 revenues received in the prior fiscal year minus the sum of the following:

(i) The amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 assistance used to increase the general budget limit as provided in section 15-905, subsections K and O for the prior fiscal year.

(ii) The amount budgeted for ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 administrative costs as provided in section 15-905, subsection P for the current year.

(iii) The amount budgeted for principal and interest on impact aid revenue bonds pursuant to section 15-2104 for the current year.

B. The federal impact adjustment shall only be budgeted and expended for new construction, major renovation of buildings or soft capital.

C. The governing board may not compute a federal impact adjustment for any year in which it budgets as provided in section 15-962, subsection F.

D. If the governing board underestimated the amount of the federal impact adjustment for the current year, the board may adjust the unrestricted capital budget limit and the budget before May 15. If the board overestimated the amount of the federal impact adjustment for the current year, the board shall adjust the unrestricted capital budget limit and the budget before May 15. Not later than May 18, the budget as revised shall be submitted electronically to the superintendent of public instruction.

Sec. 40. Section 15-973, Arizona Revised Statutes, is amended to read:

15-973. Apportionment of funds; expenditure limitation

A. The state board of education shall apportion state aid from appropriations made for such purpose to the several counties on the basis of state aid entitlement for the school districts in each county. No allowance shall be made for nonresident alien children nor for wards of the United States for whom tuition is paid, but attendance of a student in a school of a county adjoining the county of his residence outside the state under a certificate of educational convenience as provided by section 15-825 shall be

1 deemed to be enrollment in the school of the county or school district of his
2 residence.
3 B. Apportionments shall be made as follows:
4 1. On July 15, one-twelfth of the total amount to be apportioned
5 during the fiscal year.
6 2. On September 15, one-twelfth of the total amount to be apportioned
7 during the fiscal year.
8 3. On October 15, one-twelfth of the total amount to be apportioned
9 during the fiscal year.
10 4. On December 15, one-twelfth of the total amount to be apportioned
11 during the fiscal year.
12 5. On January 15, one-twelfth of the total amount to be apportioned
13 during the fiscal year.
14 6. On February 15, one-twelfth of the total amount to be apportioned
15 during the fiscal year.
16 7. On March 15, one-twelfth of the total amount to be apportioned
17 during the fiscal year.
18 8. On April 15, one-sixth of the total amount to be apportioned during
19 the fiscal year.
20 9. On May 15, one-sixth of the total amount to be apportioned during
21 the fiscal year.
22 10. On June 15, one-twelfth of the total amount to be apportioned
23 during the fiscal year, except that if the total amount of monies available
24 to make the payment is less than the amount of the payment, a portion of the
25 June 15 payment may be delayed no later than June 30 to allow for the receipt
26 of income from the permanent state common school fund.
27 The superintendent of public instruction shall furnish to the county
28 treasurer and the county school superintendent an abstract of the
29 apportionment and shall certify the apportionment to the department of
30 administration, which shall draw its warrant in favor of the county treasurer
31 of each county for the amount apportioned. Upon receipt of the warrant the
32 county treasurer shall notify the county school superintendent of the amount,
33 together with any other monies standing to the credit of such school district
34 in the county school fund.
35 C. Notwithstanding subsection B of this section, if sufficient
36 appropriated funds are available and on a showing by a school district that
37 additional state monies are necessary for current expenses, an apportionment
38 or part of an apportionment of state aid may be paid to the school district
39 prior to the date set for such apportionment by subsection B of this
40 section. After the first forty days in session of the current year, a school
41 district may request additional state monies to fund the increased state aid
42 due to anticipated student growth through the first one hundred days or two
43 hundred days in session, as applicable, of the current year as provided in
44 section 15-948. In no event shall a school district have received more than
45 three-fourths of its total apportionment before April 15 of the fiscal

year. Early payments pursuant to this subsection must be approved by the state treasurer, the director of the department of administration and the superintendent of public instruction.

~~D. Until June 30, 1999, at such time and as provided by federal law or regulation, state aid shall be reduced as follows:~~

~~1. The superintendent of public instruction shall compute the amount of monies which each school district is eligible to receive under P.L. 81-874, less P.L. 81-874 monies for children with disabilities, children with specific learning disabilities and children residing on Indian lands which are in addition to the basic assistance as provided in 20 United States Code section 238(d)2(C) and (D), and for which monies have been appropriated.~~

~~2. The superintendent of public instruction shall deduct from state aid for each school district which is eligible to receive monies under P.L. 81-874 and for which monies are appropriated as provided in paragraph 1 of this subsection the lesser of:~~

~~(a) The maximum allowed by law or regulation.~~

~~(b) The amount computed as follows:~~

~~(i) For fiscal year 1982-1983, twenty-five per cent of the amount computed in paragraph 1 of this subsection.~~

~~(ii) For fiscal year 1983-1984, fifty per cent of the amount computed in paragraph 1 of this subsection.~~

~~(iii) For fiscal year 1984-1985, seventy-five per cent of the amount computed in paragraph 1 of this subsection.~~

~~(iv) Beginning with fiscal year 1985-1986, ninety-five per cent of the amount computed in paragraph 1 of this subsection.~~

~~3. The reduction in state aid shall be made from equalization assistance as prescribed in section 15-971 or from additional state aid as prescribed in section 15-972 during the fiscal year following the fiscal year in which the monies are received. The superintendent of public instruction shall make additional adjustments in state aid for allowable deductions which were not made in any previous fiscal year which is not more than five years earlier than the year in which the adjustments are made. The superintendent of public instruction shall give the school district prior notice of the intention to make the additional adjustments and may distribute the adjustments over more than one year after considering the effects of the adjustments on the school district.~~

~~E.~~ D. The superintendent of public instruction shall not make application to the federal government to utilize ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies in determining the apportionment prescribed in this section.

~~F.~~ E. If a school district which is eligible to receive monies pursuant to this article is unable to meet a scheduled payment on any lawfully incurred long-term obligation for debt service as provided in section 15-1022, the county treasurer shall use any amount distributed pursuant to this section to make the payment. The county treasurer shall

keep a record of all the instances in which a payment is made pursuant to this subsection. Any monies subsequently collected by the district to make the scheduled payment shall be used to replace the amount diverted pursuant to this subsection. When determining the total amount to be funded by a levy of secondary taxes upon property within the school district for the following fiscal year, the county board of supervisors shall add to the amounts budgeted to be expended during the following fiscal year an amount equal to the total of all payments pursuant to this subsection during the current fiscal year which were not repaid during the current year.

~~G.~~ F. The total amount of state monies that may be spent in any fiscal year by the state board of education for apportionment of state aid for education shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

Sec. 41. Section 15-973.01, Arizona Revised Statutes, is amended to read:

15-973.01. Assistance for education fund

A. The assistance for education fund is established consisting of monies received pursuant to section 43-617.

B. The state board of education shall administer the fund. On notice from the state board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313 and monies earned from investments shall be credited to the fund. Monies in the fund:

1. Are continuously appropriated to the state board of education.

2. Are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

C. The state board of education shall ACCUMULATE MONIES UNTIL THOSE MONIES ARE SUFFICIENT TO PROVIDE A MINIMUM OF FIVE DOLLARS PER UNWEIGHTED STUDENT COUNT AND SHALL distribute monies in the fund to school districts AND CHARTER SCHOOLS at the same time, in the same manner and in the same proportions as state aid from appropriations made pursuant to ~~section~~ SECTIONS 15-185 AND 15-973.

D. Monies in the fund shall not be used to reduce the general fund requirement for state aid.

Sec. 42. Section 15-991, Arizona Revised Statutes, is amended to read:

15-991. Annual estimate by county school superintendent of monies for ensuing year

A. The county school superintendent, not later than August 1 each year, shall file in writing with the governing board of each school district in the county and the board of supervisors the superintendent's estimate of the amount of school monies required by each school district for the ensuing

year, based on the budgets adopted by the governing boards of the school districts. The estimate shall contain:

1. A statement of the student count of each school district.

2. The total amount to be received for the year by each school district from the county school fund and the special county school reserve fund.

3. The ending cash balance from the previous year for each school district.

4. The anticipated interest earnings for each school district.

5. Revenues equal to the amount included in the adopted budget for the maintenance and operation section of the budget permitted by section 15-947, subsection C, paragraph 2, subdivision (a), items (ii), (iii), (iv), (v) and (vi) and subdivision (d). The county school superintendent shall estimate the additional amounts needed for each school district from the primary property tax and the secondary property tax and shall certify such amounts to the board of supervisors in writing at the time of filing the estimate. When estimating the additional amount needed from the primary property tax for a school district that is not eligible for any equalization assistance as provided in section 15-971, the county school superintendent shall include the school district governing board's estimate of the increase in the revenue control limit as prescribed by section 15-948 for the applicable year, except that the percentage increase in average daily membership used to compute the estimated increase in the revenue control limit may not exceed the average of the percentage increase in average daily membership in the three years before the year for which the estimate is made.

B. The county school superintendent shall recompute equalization assistance for education for each school district as provided in section 15-971, subsection A using the property values provided by the county assessor as provided in section 42-17052. The county school superintendent shall certify in writing the amount of equalization assistance for education and the amount needed for each school district from the primary property tax to the board of supervisors on or before the third day prior to the day the board of supervisors is required to levy school district taxes as provided in section 15-992.

C. The county school superintendent shall compute the additional amount to be levied as provided in section 15-992, subsection B, using the property values provided in section 42-17052. The county school superintendent shall certify in writing the additional amount to be levied to the county board of supervisors on or before the third day prior to the day the board of supervisors is required to levy school district taxes as provided in section 15-992.

D. On or before September 1, the governing board of a school district shall file with the county school superintendent an estimate of the amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies which it is eligible to receive during the current year. On or before

June 1, the governing board shall file with the county school superintendent and the superintendent of public instruction a statement of the actual amount of ~~P.L. 81-874~~ TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 monies it received during the current year. This subsection does not apply to accommodation schools.

E. The department may collect any other similar or related information from school districts that the department may determine is necessary to carry out the purposes of this section.

Sec. 43. Section 15-1042, Arizona Revised Statutes, is amended to read:

15-1042. Time line; student level data; definition

A. The department of education shall notify school districts and charter schools of electronic data submission procedures and shall distribute a list of the specific student level data elements that school districts and charter schools are required to submit. The department of education shall not make any changes to the student level data elements to be collected except for the following:

1. Student attendance data for a joint technological education district, including entry date and exit date, for classes that count towards the student's graduation requirements as provided for in section 15-701.01.

2. Student attendance data for a community college, unless the college is owned, operated or chartered by an Indian tribe, including entry date and exit date, for classes that count towards the student's graduation requirements as provided for in section 15-701.01.

B. ~~By July 1, 2001,~~ Each school district and charter school shall submit electronic data on a school by school basis, including student level data, to the department of education in order for the school district or charter school to receive monies for the cost of educating students pursuant to this title.

C. The department of education shall grant a school district or charter school an extension to the deadline for the submission of student level data or may provide for an alternative method for the submission of student level data if the school district or charter school proves that good cause exists for the extension, and the school district or charter school shall continue to receive monies for the cost of educating students pursuant to this title. ~~A school district or charter school requesting an extension shall notify the department of education no later than June 1, 2001.~~ The request by a school district or charter school for an extension of the deadline for the submission of student level data shall include a justification for the extension and the status of current efforts towards complying with the submission of student level data.

D. A pupil or the parent or guardian of a pupil shall not be required to submit data that does not relate to the provision of educational services or assistance to the pupil.

E. Each student level data element shall include a statutory reference to the law that necessitates its collection.

F. UNLESS OTHERWISE PRESCRIBED, SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL BEGIN TO REPORT NEW DATA ELEMENTS ON JULY 1 OF THE YEAR THAT FOLLOWS THE EFFECTIVE DATE OF THE LAW THAT REQUIRES THE COLLECTION OF THE DATA.

~~F.~~ G. Student level data items submitted to the department of education by school districts pursuant to this section shall not be used to adjust funding levels or calculate the average daily membership for the purpose of funding school districts at any time other than the fortieth, one hundredth and two hundredth day of the school year.

~~G.~~ H. A school district or charter school is not required to submit student level data to the department of education more often than once every twenty school days.

~~H.~~ I. Notwithstanding subsection ~~K~~ L of this section, the student level data shall include reasons for the withdrawal if reasons are provided by the withdrawing pupil or the pupil's parent or guardian. For the purposes of this subsection, the department of education shall include in the specific student level data elements that school districts and charter schools are required to submit data relating to students who withdraw from school because the student is pregnant or because the student is the biological parent of a child.

~~I.~~ J. The department of education shall adopt guidelines to remove outdated student level data collected by school districts and charter schools from the student accountability information system ~~beginning in the 2004-2005 school year~~.

~~J.~~ K. All student level data collected pursuant to this section is confidential and is not a public record. The data collected may be used for aggregate research and reporting.

~~K.~~ L. For the purposes of this section, "student level data" means all data elements that are compiled and submitted for each student in this state and that are necessary for the completion of the statutory requirements of the department of education and the state board of education relating to the calculation of funding for public education, the determination of student academic progress as measured by student testing programs in this state, state and federal reporting requirements and other duties prescribed to the department of education or the state board of education by law. Student level data does not include data elements related to student behavior, discipline, criminal history, medical history, religious affiliation, personal physical descriptors or family information not authorized by the parent or guardian of the pupil.

Sec. 44. Title 15, chapter 10, article 8, Arizona Revised Statutes, is amended by adding section 15-1225, to read:

15-1225. Postemployment benefits; trust accounts; actuarial report

A. IF THE GOVERNING BOARD OFFERS POSTEMPLOYMENT BENEFITS TO SCHOOL DISTRICT EMPLOYEES OR TO SPOUSES AND DEPENDENTS OF SCHOOL DISTRICT EMPLOYEES, OR BOTH, MONIES TO FUND THESE BENEFITS MAY BE DEPOSITED IN AN OTHER POSTEMPLOYMENT BENEFITS FUND OR AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT, OR BOTH. ADDITIONAL MONIES SHALL NOT BE LEGISLATIVELY APPROPRIATED SPECIFICALLY TO PROVIDE ANY POSTEMPLOYMENT BENEFITS OFFERED BY A GOVERNING BOARD.

B. AN OTHER POSTEMPLOYMENT BENEFITS FUND IS A CASH CONTROLLED FUND AS PROVIDED IN SECTION 15-905, SUBSECTION N. THE MONIES IN THE OTHER POSTEMPLOYMENT BENEFITS FUND ARE NOT SUBJECT TO REVERSION, EXCEPT THAT AT THE END OF FIVE YEARS OF NO ACTIVITY IN THE FUND, ANY REMAINING MONIES SHALL REVERT TO THE MAINTENANCE AND OPERATIONS FUND.

C. AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL MEET ALL OF THE FOLLOWING CONDITIONS:

1. CONTRIBUTIONS MADE BY THE SCHOOL DISTRICT INTO THE TRUST ACCOUNT ARE IRREVOCABLE.

2. THE ASSETS OF THE TRUST ACCOUNT SHALL BE DEDICATED TO PROVIDING BENEFITS TO SCHOOL DISTRICT RETIREES AND THEIR BENEFICIARIES IN ACCORDANCE WITH THE TERMS OF THE POSTEMPLOYMENT BENEFITS PLAN.

3. TRUST ASSETS SHALL BE LEGALLY PROTECTED FROM CREDITORS OF THE SCHOOL DISTRICT OR THE INVESTMENT MANAGER PURSUANT TO SUBSECTION F OF THIS SECTION.

D. CURRENT OR PRIOR YEAR POSTEMPLOYMENT BENEFITS LIABILITIES MAY BE PAID FROM ANY SCHOOL DISTRICT FUND FROM WHICH A SCHOOL DISTRICT MAY PAY EMPLOYEE BENEFITS INTO THE OTHER POSTEMPLOYMENT BENEFITS FUND OR TRUST ACCOUNT. PAYMENTS FOR CURRENT OR PRIOR YEAR LIABILITIES PAID INTO THE OTHER POSTEMPLOYMENT BENEFITS FUND OR TRUST ACCOUNT SHALL BE TREATED AS AN EXPENDITURE FROM THE ORIGINATING SCHOOL DISTRICT FUND.

E. THE FOLLOWING EXPENDITURES MAY BE MADE FROM AN OTHER POSTEMPLOYMENT BENEFITS FUND OR AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT:

1. ADMINISTRATIVE AND MANAGEMENT COSTS.

2. PAYMENT OF BENEFITS.

F. AN INVESTMENT MANAGER FOR AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL BE EITHER:

1. A QUALIFIED INVESTMENT MANAGER APPOINTED BY THE DISTRICT GOVERNING BOARD.

2. THE MANAGER OF A PUBLIC AGENCY POOL ESTABLISHED PURSUANT TO SECTION 11-952.01.

G. THE INVESTMENT MANAGER FOR AN OTHER POSTEMPLOYMENT BENEFITS TRUST ACCOUNT MAY INVEST AND REINVEST THE MONIES IN THE ACCOUNT AND MAY HOLD, PURCHASE, SELL, ASSIGN, TRANSFER AND DISPOSE OF ANY OF THE SECURITIES AND

INVESTMENTS IN WHICH ANY OF THE TRUST ACCOUNT MONIES ARE INVESTED. THE INVESTMENT MANAGER SHALL INVEST THE MONIES IN THE TRUST ACCOUNT IN THE SAME MANNER AS THE MONIES IN THE PERMANENT STATE LAND FUND PURSUANT TO SECTION 35-314.01, EXCEPT THAT NOT MORE THAN THIRTY PER CENT OF THE MONIES IN THE TRUST ACCOUNT MAY BE INVESTED IN EQUITY SECURITIES AT ANY TIME. THE PERCENTAGE OF INVESTMENT SHALL BE CALCULATED AT COST.

H. IF APPLICABLE, EACH SCHOOL DISTRICT SHALL SUBMIT ON OR BEFORE SEPTEMBER 1, 2009 TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE MOST RECENT ACTUARIAL STUDY OF THE SCHOOL DISTRICT'S EXISTING OTHER POSTEMPLOYMENT BENEFITS OFFERED BY THE SCHOOL DISTRICT AND ANY PROSPECTIVE OTHER POSTEMPLOYMENT BENEFITS CONTEMPLATED TO BE OFFERED BY THE SCHOOL DISTRICT, INCLUDING AN ANALYSIS OF DEFINED CONTRIBUTION PLANS AND DEFINED BENEFITS PLANS IF APPROPRIATE AND IF THE DEFINED CONTRIBUTION OR DEFINED BENEFIT PLANS ARE USED TO ADMINISTER ANY OTHER POSTEMPLOYMENT BENEFIT. EACH TIME A SCHOOL DISTRICT CONDUCTS A NEW ACTUARIAL STUDY OF THE SCHOOL DISTRICT'S EXISTING OR PROSPECTIVE OTHER POSTEMPLOYMENT BENEFITS, THE SCHOOL DISTRICT SHALL SUBMIT THE NEW STUDY TO THE JOINT LEGISLATIVE BUDGET COMMITTEE WITHIN THIRTY DAYS OF THE COMPLETION OF THE STUDY.

I. FOR THE PURPOSES OF THIS SECTION, POSTEMPLOYMENT BENEFITS DO NOT INCLUDE BENEFITS PROVIDED BY THE ARIZONA STATE RETIREMENT SYSTEM.

Sec. 45. Section 15-2002, Arizona Revised Statutes, is amended to read:

15-2002. <u>Powers and duties; executive director; staffing; report</u>

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 ~~F~~ 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 ~~private~~ 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 THEY 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 as approved by the legislature in the budget. The executive director shall have demonstrated competency in school finance, facilities design or facilities management, either in private business or government service. The executive director serves at the

pleasure of the governor. The staff of the school facilities board is exempt from title 41, chapter 4, articles 5 and 6. The executive director:

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

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

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

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

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

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

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

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

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

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

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

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

13. Shall provide technical support to school districts as requested by school districts in connection with the construction of new school facilities and the maintenance of existing school facilities AND MAY CONTRACT DIRECTLY WITH CONSTRUCTION PROJECT MANAGERS PURSUANT TO SUBSECTION B OF THIS SECTION.

1 THIS PARAGRAPH DOES NOT RESTRICT A SCHOOL DISTRICT FROM CONTRACTING WITH A
2 CONSTRUCTION PROJECT MANAGER USING DISTRICT OR STATE RESOURCES.
3 D. When appropriate, the school facilities board shall review and use
4 the statewide school facilities inventory and needs assessment conducted by
5 the joint committee on capital review and issued in July, 1995.
6 E. The school facilities board shall contract with one or more private
7 building inspectors to complete an initial assessment of school facilities
8 and equipment and shall inspect each school building in this state at least
9 once every five years to ensure compliance with section 15-2011. A copy of
10 the inspection report, together with any recommendations for building
11 maintenance, shall be provided to the school facilities board and the
12 governing board of the school district.
13 F. The school facilities board may consider appropriate combinations
14 of facilities or uses in making assessments of and curing deficiencies
15 pursuant to subsection A, paragraph 1 of this section and in certifying plans
16 for new school facilities pursuant to subsection A, paragraph 5 of this
17 section.
18 G. The board shall not award any monies to fund new facilities that
19 are financed by class A bonds that are issued by the school district.
20 H. The board shall not distribute monies to a school district for
21 replacement or repair of facilities if the costs associated with the
22 replacement or repair are covered by insurance or a performance or payment
23 bond.
24 I. The board may contract for construction services and materials that
25 are necessary to correct existing deficiencies in school district facilities.
26 The board may procure the construction services necessary pursuant to this
27 subsection by any method, including construction-manager-at-risk,
28 design-build, design-bid-build or job-order-contracting as provided by title
29 41, chapter 23. The construction planning and services performed pursuant to
30 this subsection are exempt from section 41-791.01.
31 J. The school facilities board may enter into agreements with school
32 districts to allow school facilities board staff and contractors access to
33 school property for the purposes of performing the construction services
34 necessary pursuant to subsection I of this section.
35 K. Each school district shall develop routine preventative maintenance
36 guidelines for its facilities. The guidelines shall be submitted to the
37 school facilities board for review and approval. If upon inspection by the
38 school facilities board it is determined that a school district facility was
39 inadequately maintained pursuant to the school district's routine
40 preventative maintenance guidelines, the school district shall use building
41 renewal monies pursuant to section 15-2031, subsection L to return the
42 building to compliance with the school district's routine preventative
43 maintenance guidelines. Once the district is in compliance, it no longer is
44 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.

Sec. 46. Section 15-2022, Arizona Revised Statutes, is amended to read:

15-2022. <u>Emergency deficiencies correction fund; definition</u>

A. An emergency deficiencies correction fund is established consisting of monies transferred from ~~the deficiencies correction fund established by section 15-2021 or~~ the new school facilities fund established by section 15-2041. The school facilities board shall administer the fund and distribute monies in accordance with the rules of the school facilities board to school districts for emergency purposes. The school facilities board shall not transfer monies from ~~the deficiencies correction fund and~~ the new school facilities fund if the transfer will affect, interfere with, disrupt or reduce any capital projects that the school facilities board has approved pursuant to ~~sections 15-2021 and~~ SECTION 15-2041. The school facilities board shall transfer to the emergency deficiencies correction fund the amount necessary each fiscal year to fulfill the requirements of this section. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. If the school facilities board determines that there are insufficient monies in the emergency deficiencies correction fund to correct an emergency, the school district may correct the emergency pursuant to section 15-907.

C. If a school district has an emergency, the school district shall apply to the school facilities board for funding for the emergency. The school district's application shall disclose any insurance or building renewal monies available to the school district to pay for the emergency.

D. The school facilities board staff shall ~~notify~~ ACKNOWLEDGE RECEIPT OF the school ~~district of the staff's recommendation~~ DISTRICT'S APPLICATION FOR EMERGENCY DEFICIENCIES FUNDING IN WRITING within five business days of receiving the application. The school facilities board STAFF shall ~~decide on the staff's recommendation for funding at the next scheduled school facilities board meeting~~ INCLUDE IN THE WRITTEN ACKNOWLEDGEMENT OF RECEIPT TO THE SCHOOL DISTRICT ANY INVESTIGATIVE, STUDY OR INFORMATIONAL REQUIREMENTS FROM THE SCHOOL DISTRICT, ALONG WITH AN ESTIMATED TIMELINE TO COMPLETE THE REQUIREMENTS, NECESSARY FOR THE SCHOOL FACILITIES BOARD STAFF TO MAKE A RECOMMENDATION FOR FUNDING TO THE SCHOOL FACILITIES BOARD.

E. For the purposes of this section, "emergency" means a serious need for materials, services or construction or expenses in excess of the district's adopted budget for the current fiscal year ~~and~~ that seriously ~~threaten~~ THREATENS the functioning of the school district, the preservation or protection of property or public health, welfare or safety.

Sec. 47. Section 15-2031, Arizona Revised Statutes, is amended to read:

15-2031. Building renewal fund; definitions

A. A building renewal fund is established consisting of monies appropriated by the legislature. The school facilities board shall administer the fund and distribute monies to school districts for the purpose of maintaining the adequacy of existing school facilities. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. The school facilities board shall inventory and inspect all school buildings in this state in order to develop a database to administer the building renewal formula. The database shall include the student capacity of the building as determined by the school facilities board. The board shall distribute monies from the building renewal fund to school districts in an amount computed pursuant to subsection I of this section. A school district that receives monies from the building renewal fund shall use the monies first for any projects that fall below the minimum school facility adequacy guidelines, as adopted by the school facilities board pursuant to section 15-2011, and that are part of any buildings in the database and second for any other projects that are part of any buildings owned by the school district for any of the following:

1. Major renovations and repairs of a building.

2. Upgrading systems and areas that will maintain or extend the useful life of the building.

3. Infrastructure costs.

4. Relocation and placement of portable and modular buildings.

C. Monies received from the building renewal fund shall be used for primary projects, unless only secondary projects exist.

D. Notwithstanding subsections B and C of this section, school districts shall use building renewal monies on secondary projects to comply with building, health, fire or safety codes. Before spending building renewal monies on secondary projects to comply with building, health, fire or safety codes, the school facilities board shall approve the projects.

E. Monies received from the building renewal fund shall not be used for any of the following purposes:

1. New construction.

2. Remodeling interior space for aesthetic or preferential reasons.

3. Exterior beautification.

4. Demolition.

5. The purchase of soft capital items pursuant to section 15-962, subsection D.

6. Routine maintenance except as provided in section 15-2002, subsection K and subsection L of this section.

F. The school facilities board shall maintain the building renewal database and use the database for the computation of the building renewal formula distributions. The board shall ensure that the database is updated on at least an annual basis to reflect changes in the ages and value of school buildings. The facilities listed in the database shall include only those buildings that are owned by school districts that are required to meet academic standards. Each school district shall report to the school facilities board no later than ~~September 1~~ OCTOBER 15 of each year the number and type of school buildings owned by the district, the square footage of each building, the age of each building, the nature of any renovations completed and the cost of any renovations completed. The school facilities board may review or audit, or both, to confirm the information submitted by a school district. If a joint technological education district leases a building from a school district, that building shall not be included in the school district's square footage calculation for the purposes of determining the school district's building renewal distribution pursuant to this section. The board shall adjust the age of each school facility in the database whenever a building is significantly upgraded or remodeled. The age of a building that has been significantly upgraded or remodeled shall be recomputed as follows:

1. Divide the cost of the renovation by the building capacity value of the building determined in subsection I, paragraph 3 of this section.

2. Multiply the quotient determined in paragraph 1 of this subsection by the currently listed age of the building in the database.

3. Subtract the product determined in paragraph 2 of this subsection from the currently listed age of the building in the database, rounded to the nearest whole number. If the result is negative, use zero.

1 G. The school facilities board shall submit ELECTRONICALLY an annual
2 report to the president of the senate, the speaker of the house of
3 representatives, the Arizona state library, archives and public records and
4 the governor by October 1 that includes the computation of the amount of
5 monies to be distributed from the building renewal fund for the current
6 fiscal year. The joint committee on capital review shall review the school
7 facilities board's calculation of the building renewal fund distributions.
8 After the joint committee on capital review reviews the distributions
9 computed by the school facilities board, the school facilities board shall
10 distribute the monies from the building renewal fund to school districts in
11 two equal installments in November and May of each year.
12 H. School districts that receive monies from the building renewal fund
13 shall establish a district building renewal fund and shall use the monies in
14 the district building renewal fund only for the purposes prescribed in
15 subsection B of this section. Ending cash balances in a school district's
16 building renewal fund may be used in following fiscal years for building
17 renewal pursuant to subsection B of this section. By October 15 of each
18 year, each school district shall report to the school facilities board the
19 projects funded at each school in the previous fiscal year with monies from
20 the district building renewal fund, including the amount of expenditures
21 dedicated to primary projects and to secondary projects. On receipt of these
22 reports, the school facilities board shall forward this information to the
23 joint legislative budget committee staff and the governor's office of
24 strategic planning and budgeting staff. Each school district shall also
25 report to the school facilities board an accounting of the monies remaining
26 in the district building renewal fund at the end of the previous fiscal year
27 and a comprehensive three year plan that details the proposed use of building
28 renewal monies. If a school district fails to submit the report by October
29 15 OR THE INFORMATION REQUIRED BY SUBSECTION F OF THIS SECTION, the school
30 facilities board shall withhold building renewal monies from the school
31 district until the school facilities board determines that the school
32 district has complied with the reporting requirement. When the school
33 facilities board determines that the school district has complied with the
34 reporting requirement, the school facilities board shall restore the full
35 amount of withheld building renewal monies to the school district.
36 I. Notwithstanding any other provision of this chapter, if a school
37 district converts space that is listed in the database maintained pursuant to
38 this section to space that will be used for administrative purposes, the
39 school district is responsible for any costs associated with the conversion,
40 maintenance and replacement of that space. The building renewal amount for
41 each school building shall be computed as follows:
42 1. Divide the age of the building as computed pursuant to subsection F
43 of this section by one thousand two hundred seventy-five or, in the case of
44 modular or portable buildings, by two hundred ten.

2. Multiply the quotient determined in paragraph 1 of this subsection by 0.67.

3. Determine the building capacity value as follows:

(a) Multiply the student capacity of the building by the per student square foot capacity established by section 15-2041.

(b) Multiply the product determined in subdivision (a) by the cost per square foot established by section 15-2041.

4. Multiply the product determined in paragraph 2 of this subsection by the product determined in paragraph 3, subdivision (b) of this subsection.

J. If the school facilities board determines that a school district has spent monies from the building renewal fund for purposes other than those prescribed in subsection B of this section, the school facilities board shall notify the superintendent of public instruction. Notwithstanding any other law, the superintendent of public instruction shall withhold a corresponding amount from the monies that would otherwise be due the school district under the capital outlay revenue limit until these monies are repaid.

K. ~~Beginning on July 1, 2002,~~ A school district is not entitled to receive monies from the building renewal fund for any buildings that are to be replaced with new buildings that are funded with deficiencies corrections monies. The replacement buildings are not eligible to receive building renewal funding until the fiscal year following the completion of the building.

L. Notwithstanding subsections B and E of this section, a school district may use eight per cent of the building renewal amount computed pursuant to subsection I of this section for routine preventative maintenance. The board, after consultation with maintenance specialists in school districts, shall provide examples of recommended services that are routine preventative maintenance.

M. A school district that uses building renewal monies for routine preventative maintenance shall use the building renewal monies to supplement and not supplant expenditures from other funds for the maintenance of school buildings. The auditor general shall prescribe a method for determining compliance with the requirements of this subsection. A school district, in connection with any audit conducted by a certified public accountant, shall also contract for an independent audit to determine whether the school district used building renewal monies to reduce the school district's existing level of routine preventative maintenance funding. The auditor general may conduct discretionary reviews of a school district that is not required to contract for an independent audit.

N. For the purposes of this section:

1. "Primary projects" means projects that are necessary for buildings owned by school districts that are required to meet the academic standards listed in the database maintained pursuant to subsection F of this section and that fall below the minimum school facility adequacy guidelines, as adopted by the school facilities board pursuant to section 15-2011.

2. "Routine preventative maintenance" means services that are performed on a regular schedule at intervals ranging from four times a year to once every three years and that are intended to extend the useful life of a building system and reduce the need for major repairs.

3. "Secondary projects" means all projects that are not primary projects.

4. "Student capacity" has the same meaning prescribed in section 15-2011.

Sec. 48. Section 15-2041, Arizona Revised Statutes, is amended to read:

15-2041. New school facilities fund; capital plan; report

A. A new school facilities fund is established consisting of monies appropriated by the legislature and monies credited to the fund pursuant to section 37-221. The school facilities board shall administer the fund and distribute monies, as a continuing appropriation, to school districts for the purpose of constructing new school facilities AND FOR CONTRACTED EXPENSES PURSUANT TO SECTION 15-2002, SUBSECTION B, PARAGRAPHS 2, 3 AND 4. On June 30 of each fiscal year, any unobligated contract monies in the new school facilities fund shall be transferred to the capital reserve fund established by section 15-2003.

B. The school facilities board shall prescribe a uniform format for use by the school district governing board in developing and annually updating a capital plan that consists of each of the following:

1. Enrollment projections for the next five years for elementary schools and eight years for middle and high schools, including a description of the methods used to make the projections.

2. A description of new schools or additions to existing schools needed to meet the building adequacy standards prescribed in section 15-2011. The description shall include:

(a) The grade levels and the total number of pupils that the school or addition is intended to serve.

(b) The year in which it is necessary for the school or addition to begin operations.

(c) A timeline that shows the planning and construction process for the school or addition.

3. Long-term projections of the need for land for new schools.

4. Any other necessary information required by the school facilities board to evaluate a school district's capital plan.

5. If a school district pays tuition for all or a portion of the school district's high school pupils to another school district, the capital plan shall indicate the number of pupils for which the district pays tuition to another district. If a school district accepts pupils from another school district pursuant to section 15-824, subsection A, the school district shall indicate the projections for this population separately. This paragraph does not apply to a small isolated school district as defined in section 15-901.

C. If the capital plan indicates a need for a new school or an addition to an existing school within the next four years or a need for land within the next ten years, the school district shall submit its plan to the school facilities board by September 1 and shall request monies from the new school facilities fund for the new construction or land. Monies provided for land shall be in addition to any monies provided pursuant to subsection D of this section.

D. The school facilities board shall distribute monies from the new school facilities fund as follows:

1. The school facilities board shall review and evaluate the enrollment projections and either approve the projections as submitted or revise the projections. In determining new construction requirements, the school facilities board shall determine the net new growth of pupils that will require additional square footage that exceeds the building adequacy standards prescribed in section 15-2011. If the projected growth and the existing number of pupils exceed three hundred fifty pupils who are served in a school district other than the pupil's resident school district, the school facilities board, the receiving school district and the resident school district shall develop a capital facilities plan on how to best serve those pupils. A small isolated school district as defined in section 15-901 is not required to develop a capital facilities plan pursuant to this paragraph.

2. If the approved projections indicate that additional space will not be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the request shall be held for consideration by the school facilities board for possible future funding and the school district shall annually submit an updated plan until the additional space is needed.

3. If the approved projections indicate that additional space will be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the school facilities board shall provide an amount as follows:

(a) Determine the number of pupils requiring additional square footage to meet building adequacy standards. This amount for elementary schools shall not be less than the number of new pupils for whom space will be needed in the next year and shall not exceed the number of new pupils for whom space will be needed in the next five years. This amount for middle and high schools shall not be less than the number of new pupils for whom space will be needed in the next four years and shall not exceed the number of new pupils for whom space will be needed in the next eight years.

(b) Multiply the number of pupils determined in subdivision (a) of this paragraph by the square footage per pupil. The square footage per pupil is ninety square feet per pupil for preschool children with disabilities, kindergarten programs and grades one through six, one hundred square feet for

grades seven and eight, one hundred thirty-four square feet for a school district that provides instruction in grades nine through twelve for fewer than one thousand eight hundred pupils and one hundred twenty-five square feet for a school district that provides instruction in grades nine through twelve for at least one thousand eight hundred pupils. The total number of pupils in grades nine through twelve in the district shall determine the square footage factor to use for net new pupils. The school facilities board may modify the square footage requirements prescribed in this subdivision for particular schools based on any of the following factors:

(i) The number of pupils served or projected to be served by the school district.

(ii) Geographic factors.

(iii) Grade configurations other than those prescribed in this subdivision.

(iv) Compliance with minimum school facility adequacy requirements established pursuant to section 15-2011.

(c) Multiply the product obtained in subdivision (b) of this paragraph by the cost per square foot. The cost per square foot is ninety dollars for preschool children with disabilities, kindergarten programs and grades one through six, ninety-five dollars for grades seven and eight and one hundred ten dollars for grades nine through twelve. The cost per square foot shall be adjusted annually for construction market considerations based on an index identified or developed by the joint legislative budget committee as necessary but not less than once each year. The school facilities board shall multiply the cost per square foot by 1.05 for any school district located in a rural area. The school facilities board may modify the base cost per square foot prescribed in this subdivision for particular schools based on geographic conditions or site conditions. For the purposes of this subdivision, "rural area" means an area outside a thirty-five mile radius of a boundary of a municipality with a population of more than fifty thousand persons.

(d) Once the school district governing board obtains approval from the school facilities board for new facility construction funds, additional portable or modular square footage created for the express purpose of providing temporary space for pupils until the completion of the new facility shall not be included by the school facilities board for the purpose of new construction funding calculations. On completion of the new facility construction project, if the portable or modular facilities continue in use, the portable or modular facilities shall be included as prescribed by this chapter, unless the school facilities board approves their continued use for the purpose of providing temporary space for pupils until the completion of the next new facility that has been approved for funding from the new school facilities fund.

4. For projects approved after December 31, 2001, and notwithstanding paragraph 3 of this subsection, a unified school district that does not have

a high school is not eligible to receive high school space as prescribed by section 15-2011 and this section unless the unified district qualifies for geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of this subsection.

5. If a joint technological education district leases a building from a school district, that building shall be included in the school district's square footage calculation for the purposes of new construction pursuant to this section.

E. Monies for architectural and engineering fees, project management services and preconstruction services shall be distributed on the completion of the analysis by the school facilities board of the school district's request. After receiving monies pursuant to this subsection, the school district shall submit a design development plan for the school or addition to the school facilities board before any monies for construction are distributed. If the school district's request meets the building adequacy standards, the school facilities board may review and comment on the district's plan with respect to the efficiency and effectiveness of the plan in meeting state square footage and facility standards before distributing the remainder of the monies. If the school facilities board modifies the cost per square foot as prescribed in subsection D, paragraph 3, subdivision (c) OF THIS SECTION, the school facilities board may deduct the cost of project management services and preconstruction services from the required cost per square foot. The school facilities board may decline to fund the project if the square footage is no longer required due to revised enrollment projections.

F. The school facilities board shall distribute the monies needed for land for new schools so that land may be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school. If necessary, the school facilities board may distribute monies for land to be leased for new schools if the duration of the lease exceeds the life expectancy of the school facility by at least fifty per cent. The proceeds derived through the sale of any land purchased or partially purchased with monies provided by the school facilities board shall be returned to the state fund from which it was appropriated and to any other participating entity on a proportional basis. Except as provided in section 15-342, paragraph 33, if a school district acquires real property by donation at an appropriate school site approved by the school facilities board, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the donated real property that can be used for academic purposes. The school district shall place the monies in the unrestricted capital outlay fund and increase the unrestricted capital budget limit by the amount of monies placed in the fund. Monies distributed under this subsection shall be distributed from the new school facilities fund. A school district that receives monies from the new school facilities fund for a donation of land pursuant to section 15-342, paragraph 33 shall not receive

monies from the school facilities board for the donation of real property pursuant to this subsection. A school district shall not pay a consultant a percentage of the value of any of the following:

1. Donations of real property, services or cash from any of the following:

(a) Entities that have offered to provide construction services to the school district.

(b) Entities that have been contracted to provide construction services to the school district.

(c) Entities that build residential units in that school district.

(d) Entities that develop land for residential use in that school district.

2. Monies received from the school facilities board on behalf of the school district.

3. Monies paid by the school facilities board on behalf of the school district.

G. In addition to distributions to school districts based on pupil growth projections, a school district may submit an application to the school facilities board for monies from the new school facilities fund if one or more school buildings have outlived their useful life. If the school facilities board determines that the school district needs to build a new school building for these reasons, the school facilities board shall remove the square footage computations that represent the building from the computation of the school district's total square footage for purposes of this section. If the square footage recomputation reflects that the school district no longer meets building adequacy standards, the school district qualifies for a distribution of monies from the new school construction formula in an amount determined pursuant to subsection D of this section. Buildings removed from a school district's total square footage pursuant to this subsection shall not be included in the computation of monies from the building renewal fund established by section 15-2031. The school facilities board may modify the base cost per square foot prescribed in this subsection under extraordinary circumstances for geographic factors or site conditions.

H. School districts that receive monies from the new school facilities fund shall establish a district new school facilities fund and shall use the monies in the district new school facilities fund only for the purposes prescribed in this section. By October 15 of each year, each school district shall report to the school facilities board the projects funded at each school in the previous fiscal year with monies from the district new school facilities fund and shall provide an accounting of the monies remaining in the new school facilities fund at the end of the previous fiscal year.

I. If a school district has surplus monies received from the new school facilities fund, the school district may use the surplus monies only for capital purposes for the project for up to one year after completion of the project. If the school district possesses surplus monies from the new

school construction project that have not been expended within one year of the completion of the project, the school district shall return the surplus monies to the school facilities board for deposit in the new school facilities fund.

J. The board's consideration of any application filed ~~after July 1, 2001 or~~ after December 31 of the year in which the property becomes territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461 for monies to fund the construction of new school facilities proposed to be located in territory in the vicinity of a military airport or ancillary military facility shall include, if after notice is transmitted to the military airport pursuant to section 15-2002 and before the public hearing the military airport provides comments and AN analysis concerning compatibility of the proposed school facilities with the high noise or accident potential generated by military airport or ancillary military facility operations that may have an adverse effect on public health and safety, consideration and analysis of the comments and analysis provided by the military airport before making a final determination.

K. If a school district uses its own project manager for new school construction, the members of the school district governing board and the project manager shall sign an affidavit stating that the members and the project manager understand and will follow the minimum adequacy requirements prescribed in section 15-2011.

L. The school facilities board shall establish a separate account in the new school facilities fund designated as the litigation account to pay attorney fees, expert witness fees and other costs associated with litigation in which the school facilities board pursues the recovery of damages for deficiencies correction that resulted from alleged construction defects or design defects that the school facilities board believes caused or contributed to a failure of the school building to conform to the building adequacy requirements prescribed in section 15-2011. Attorney fees paid pursuant to this subsection shall not exceed the market rate for similar types of litigation. The joint committee on capital review shall conduct an annual review of the litigation account, including the costs associated with current and potential litigation.

M. Until the state board of education and the auditor general adopt rules pursuant to section 15-213, subsection I, the school facilities board may allow school districts to contract for construction services and materials through the qualified select bidders list method of project delivery for new school facilities pursuant to this section.

N. The school facilities board shall submit ELECTRONICALLY a report on project management services and preconstruction services to the governor, the president of the senate and the speaker of the house of representatives by December 31 of each year. The report shall compare projects that use project management and preconstruction services with those that do not. The report shall address cost, schedule and other measurable components of a

construction project. School districts, construction manager at risk firms and project management firms that participate in a school facilities board funded project shall provide the information required by the school facilities board in relation to this report.

O. If a school district constructs new square footage according to section 15-342, paragraph 33, the school facilities board shall review the design plans and location of any new school facility submitted by school districts and another party to determine whether the design plans comply with the adequacy standards prescribed in section 15-2011 and the square footage per pupil requirements pursuant to subsection D, paragraph 3, subdivision (b) of this section. When the school district qualifies for a distribution of monies from the new school facilities fund according to this section, the school facilities board shall distribute monies to the school district from the new school facilities fund for the square footage constructed under section 15-342, paragraph 33 at the same cost per square foot established by this section that was in effect at the time of the beginning of the construction of the school facility. Before the school facilities board distributes any monies pursuant to this subsection, the school district shall demonstrate to the school facilities board that the facilities to be funded pursuant to this section meet the minimum adequacy standards prescribed in section 15-2011. The agreement entered into pursuant to section 15-342, paragraph 33 shall set forth the procedures for the allocation of these funds to the parties that participated in the agreement.

Sec. 49. Section 38-618.01, Arizona Revised Statutes, is amended to read:

38-618.01. <u>Performance pay for state employees; applicability; definition</u>

A. All state agencies, departments, boards and commissions shall follow the procedures prescribed by this section.

B. The legislature may authorize in the general appropriations act a percentage increase for performance pay for each employee in a governmental unit if the governmental unit meets or exceeds prescribed performance measures.

C. Each governmental unit shall establish or revise a list of reasonable performance measures that are designed to result in cost reduction, increased productivity and improved quality of the delivery of state services or products. The performance measures shall include a measurement of the quality of service to citizens and other state agencies and employees as measured by the degree of excellence in providing the service and measurements of the quality of operations and unit cost of operations to the extent practicable and applicable. The head of each governmental unit shall either apply these performance measures to the entire governmental unit or apply relevant performance measures to subsets within the governmental unit either on a department, division, group, unit or individual basis.

D. Every month or every quarter, at the discretion of the governmental unit, the governmental unit shall review the unit's performance and determine if the performance measures were met. If the performance measures are met or exceeded, the applicable employees are entitled to receive the performance pay no later than the end of each month or the end of each quarter, if applicable. If the performance measures are not met, the applicable employee is not entitled to receive performance pay and monies that were appropriated for performance pay revert to the appropriate state fund. Each governmental unit shall annually inform the governor's office of strategic planning and budgeting and the joint legislative budget committee of the results of each review of the unit's performance.

E. If the head of the governmental unit applies the performance measures to the entire governmental unit, all employees of the governmental unit are entitled to receive the performance pay if the governmental unit meets or exceeds the governmental unit's performance measures. If the head of the governmental unit applies performance measures to subsets within the governmental unit, all employees within the subset are entitled to receive the performance pay if the subset meets or exceeds that subset's performance measures.

F. The head of the governmental unit shall forward a copy of the performance measures established by the unit to the performance based incentives program oversight committee established by section 38-619 and shall notify the committee as to the results of achieving the performance measures.

G. Each governmental unit shall annually conduct a survey of the unit's employees ensuring that a significant sample of employees participates. The survey shall allow the employees to rate the workplace as outstanding, excellent, good, satisfactory or poor. The survey shall provide a comment section where employees can communicate what the governmental unit does well, areas where the governmental unit can improve and suggestions to improve the governmental unit. The governmental unit shall compile the data obtained pursuant to this subsection and forward a copy of the compiled data to the performance based incentives program oversight committee and on request make a copy of the compiled data available to the public.

H. This section does not apply to:

1. Employees who are appointed or employed by the legislature or either house of the legislature.

2. Employees of the governor's office.

3. Employees of the judiciary unless the chief justice of the supreme court elects to participate in this section.

4. Employees of the Arizona board of regents and employees of a university under the jurisdiction of the Arizona board of regents.

5. EMPLOYEES OF THE DEPARTMENT OF EDUCATION. THIS PARAGRAPH DOES NOT PROHIBIT THE SUPERINTENDENT OF PUBLIC INSTRUCTION FROM ADOPTING A PERFORMANCE PAY PLAN THAT CONFORMS TO THIS SECTION.

I. For the purposes of this section, "governmental unit" means all agencies, departments, boards and commissions of this state.

Sec. 50. Title 38, chapter 5, article 2, Arizona Revised Statutes, is amended by adding section 38-781, to read:

38-781. Supplemental employee deferral plan; public employees; administration; immunity; definitions

A. A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN IS ESTABLISHED TO PROVIDE PUBLIC EMPLOYEES, OTHER THAN STATE EMPLOYEES, AN OPPORTUNITY TO SAVE ADDITIONAL TAX-DEFERRED MONIES FOR RETIREMENT.

B. ASRS MAY ESTABLISH, ADMINISTER, MANAGE AND OPERATE A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN FOR EMPLOYERS OTHER THAN THIS STATE.

C. ASRS MAY:

1. EMPLOY SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES, FOR THE OPERATION AND ADMINISTRATION OF THE PLAN.

2. ADMINISTER THE PLAN THROUGH CONTRACTS WITH MULTIPLE VENDORS.

3. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.

4. FOR THE PURPOSES OF THIS SECTION, ENTER INTO INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.

D. A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN IS IN ADDITION TO AND DOES NOT REPLACE AN EMPLOYEE'S EXISTING STATE DEFINED BENEFIT RETIREMENT PLAN.

E. IF AN EMPLOYER THAT IS NOT THIS STATE ELECTS TO PARTICIPATE IN THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN, ANY EMPLOYEE OF THE EMPLOYER WHO MEETS THE ELIGIBILITY REQUIREMENTS THAT ARE PRESCRIBED BY ASRS FOR PARTICIPATION IN THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN MAY PARTICIPATE IN THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN.

F. PARTICIPATION IN THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN AUTHORIZES THE PARTICIPANT'S EMPLOYER TO MAKE SALARY REDUCTIONS FROM THE PARTICIPANT'S COMPENSATION AND CONTRIBUTE SUCH SALARY REDUCTIONS TO THE PLAN. AN EMPLOYER MAY MAKE EMPLOYER CONTRIBUTIONS TO THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN IF THE PLAN PERMITS. THE EMPLOYER SHALL SUBMIT ANY REPORTS REQUIRED BY THE PLAN. IF THE PARTICIPANT IS AN ACTIVE MEMBER, ANY COMPENSATION DEFERRED BY AN EMPLOYEE UNDER THE PLAN SHALL BE INCLUDED AS REGULAR COMPENSATION OR COMPENSATION FOR THE PURPOSE OF COMPUTING THE RETIREMENT AND PENSION BENEFITS PROVIDED IN THIS ARTICLE EARNED BY ANY EMPLOYEE PARTICIPATING IN THE PLAN.

G. EMPLOYEE CONTRIBUTIONS AND EARNINGS ON EMPLOYEE CONTRIBUTIONS ARE IMMEDIATELY VESTED. EMPLOYER CONTRIBUTIONS, IF ANY, AND THE EARNINGS ON EMPLOYER CONTRIBUTIONS SHALL VEST ACCORDING TO THE SCHEDULE ESTABLISHED IN THE PLAN.

H. NOTWITHSTANDING ANY OTHER LAW, THIS STATE AND ITS OFFICERS AND EMPLOYEES, THE BOARD AND ASRS ARE IMMUNE FROM CIVIL LIABILITY AND ARE NOT SUBJECT TO SUIT DIRECTLY OR BY WAY OF CONTRIBUTION FOR ANY ACT OR OMISSION RESULTING IN ANY DAMAGE OR INJURY ARISING OUT OF THE SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN.

I. FOR THE PURPOSES OF THIS SECTION:

1. "STATE" MEANS THIS STATE, INCLUDING ANY DEPARTMENT, OFFICE, BOARD, COMMISSION, AGENCY OR UNIVERSITY, BUT DOES NOT MEAN ANY SCHOOL DISTRICT OR COMMUNITY COLLEGE DISTRICT.

2. "SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN" MEANS A TAX DEFERRED ANNUITY DESCRIBED IN SECTION 403(b) OF THE INTERNAL REVENUE CODE, INCLUDING A CUSTODIAL ACCOUNT DESCRIBED IN 403(b)(7) OF THE INTERNAL REVENUE CODE, AND AN ELIGIBLE DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457(b) OF THE INTERNAL REVENUE CODE. A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN SHALL COMPLY WITH ALL APPLICABLE PROVISIONS OF THE SECTION OF THE INTERNAL REVENUE CODE UNDER WHICH SUCH PLAN IS ADOPTED AND MAINTAINED.

Sec. 51. Repeal

Section 41-3010.25, Arizona Revised Statutes, is repealed.

Sec. 52. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3019.01, to read:

41-3019.01. Commission for postsecondary education; termination July 1, 2019

A. THE COMMISSION FOR POSTSECONDARY EDUCATION TERMINATES ON JULY 1, 2019.

B. TITLE 15, CHAPTER 14, ARTICLE 5 IS REPEALED ON JANUARY 1, 2020.

Sec. 53. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. Exemption from municipal tax

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the vendor ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.

7. Through December 31, 2009, the gross proceeds of sales or gross income received from a contract from constructing any lake facility development in a commercial enhancement reuse district established pursuant to section 9-499.08.

8. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

9. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:

(a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.

(b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

10. The gross proceeds of sales or gross income retained by the Arizona exposition and state fair board from ride ticket sales at the annual Arizona state fair.

11. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

B. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, on natural gas or liquefied petroleum gas used to propel a motor vehicle.

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:

1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.

2. Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.

3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Through December 31, 2009, and except as provided in section 42-6104, a contract from constructing any lake facility development in a commercial enhancement reuse district established pursuant to section 9-499.08.

7. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one per cent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

E. In computing the tax base, any city, town or other taxing jurisdiction shall not include in the gross proceeds of sales or gross income:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

F. A CITY OR TOWN SHALL NOT LEVY A USE TAX ON THE STORAGE, USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY IN THE CITY OR TOWN BY A SCHOOL DISTRICT OR CHARTER SCHOOL.

Sec. 54. Section 43-1089, Arizona Revised Statutes, is amended to read:

43-1089. Credit for contributions to school tuition organization; definitions

A. A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization, but not exceeding:

1. Five hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred twenty-five dollars in taxable year 2005 for a married couple filing a joint return.

3. One thousand dollars in taxable year 2006 and any subsequent year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

D. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer.

F. A school tuition organization that receives a voluntary cash contribution pursuant to subsection A shall report ELECTRONICALLY to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The name, address and contact name of the school tuition organization.

2. The total number of contributions received during the previous calendar year.

3. The total dollar amount of contributions received during the previous calendar year.

4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.

5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

6. For each school to which educational scholarships or tuition grants were awarded:

(a) The name and address of the school.

(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.

(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

G. For the purposes of this section:

1. "Handicapped student" means a student who has any of the following conditions:

(a) Hearing impairment.

(b) Visual impairment.

(c) ~~Preschool moderate~~ DEVELOPMENTAL delay.

(d) Preschool severe delay.

(e) ~~Preschool~~ Speech ~~or~~ /language ~~delay~~ IMPAIRMENT.

2. "Qualified school" means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

3. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates at least ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

Sec. 55. Repeal

Senate bill 1187, section 74, forty-ninth legislature, first regular session, as transmitted to the governor, is repealed.

Sec. 56. Arizona online instruction; reports

Notwithstanding section 15-808, Arizona Revised Statutes, as amended by this act, until July 31, 2010, each school selected by the state board of education and each selected school sponsored by the state board for charter schools to participate in Arizona online instruction shall submit an annual report to the department of education. The department of education shall collaborate to develop a uniform reporting format to be used by all schools that participate in Arizona online instruction. The reports shall be submitted on or before August 1 each year and shall include the following information:

1. A description of the educational services that are offered under and that specifically relate to the depth and breadth of the curriculum choices offered by the school.

2. A description of the effects of media and technology on the delivery of specific educational services to specific pupil populations.

3. Academic advancement as measured in grade level equivalents each academic year based on a standardized norm-referenced achievement test.

4. Data identified by the department of education that compares the academic performance of pupils who participate in Arizona online instruction with other pupils in this state and with pupils in that school who do not participate in Arizona online instruction.

5. The results of a survey of pupil satisfaction with Arizona online instruction, including:

(a) Pupils' attitudes about delivery modalities employed by the school.

(b) Changes in pupils' attitudes toward learning in general.

(c) Changes in pupils' attitudes about their own ability to learn and about their own academic progress.

(d) Pupils' attitudes about the school they attend.

6. The results of a survey of parental satisfaction with Arizona online instruction, including:

(a) Parents' and their children's attitudes about the delivery modalities employed by the school.

(b) Changes in their children's attitudes about learning in general.

(c) Changes in their children's attitudes about their ability to learn and about their academic progress.

(d) Parents' and their children's attitudes about the school that the child attends.

7. A description of the availability and equitable distribution of educational services provided under Arizona online instruction, including specific descriptions of the effectiveness of technology tools and modalities used to address the needs of any underserved populations targeted by the school.

8. A description of the operational and administrative efficiency of Arizona online instruction.

9. A description of the cost-effectiveness of Arizona online instruction.

10. A listing of the salaries, by titles and job descriptions, of the administrators who are employed at or contracted for employment at each school selected by the state board of education or the state board for charter schools to participate in Arizona online instruction.

11. A description of assessment measures implemented to ensure the academic integrity of pupils pursuant to section 15-808, Arizona Revised Statutes, subsection H, as amended by this act.

Sec. 57. <u>School district budget overexpenditures; correction; interest</u>

A. Notwithstanding sections 15-905 and 15-915, Arizona Revised Statutes, as amended by this act, a school district that overexpended its budget at any time during a five-year period beginning in fiscal year 2002-2003 and ending in fiscal year 2006-2007 shall correct the overexpenditures in equal installments over a five-year period beginning in

fiscal year 2009-2010 and ending in fiscal year 2013-2014. This subsection applies to a district if all of the following conditions exist:

1. The school district is a union high school district that is located in a county with a population of less than one million persons but more than two hundred fifty thousand persons.

2. The school district's average daily membership for the 2006-2007 school year was more than four hundred pupils but less than five hundred fifty pupils.

3. The total amount of the correction that would otherwise be required under section 15-915, Arizona Revised Statutes, as amended by this act, for fiscal years 2002-2003 through 2006-2007 is more than three hundred thousand dollars but less than eight hundred thousand dollars.

B. In addition to monies required to be repaid pursuant to subsection A of this section, accrued interest shall be paid at a rate determined by the superintendent of public instruction.

Sec. 58. Unified school district budget overexpenditures; correction; interest

A. Notwithstanding sections 15-905 and 15-915, Arizona Revised Statutes, as amended by this act, a school district that overexpended its budget during fiscal year 2005-2006 and fiscal year 2006-2007 shall correct the overexpenditures in equal installments beginning in fiscal year 2009-2010 and ending in fiscal year 2013-2014 if all of the following conditions exist:

1. The school district is a unified district that is located in a county with a population of more than fifty thousand persons but less than one hundred thousand persons.

2. The school district's average daily membership for the 2007-2008 school year was more than seven hundred pupils but less than one thousand two hundred pupils.

3. The total amount of the correction that would otherwise be required under section 15-915, Arizona Revised Statutes, as amended by this act, for fiscal years 2005-2006 and 2006-2007 is more than two million five hundred dollars but less than three million two hundred dollars.

B. In addition to monies required to be repaid pursuant to subsection A of this section, accrued interest shall be paid at a rate determined by the superintendent of public instruction.

Sec. 59. Previous audits; average daily membership; repayment; retroactivity

A. Notwithstanding any other law, a school district that meets the criteria specified in subsection B, paragraph 1 or 2 of this section and that is required to repay monies to this state as the result of an audit conducted before the effective date of this act by the department of education or the office of the auditor general pursuant to Laws 2006, chapter 353, section 23, Laws 2007, chapter 264, section 17 or Laws 2008, chapter 287, section 50 shall repay the full amount of the monies due to this state as a result of the audit within five years after the date of the audit finding.

B. The following school districts are eligible to use the repayment provisions of subsection A of this section:

1. A unified school district with a student count of at least two thousand but less than three thousand in fiscal year 2007-2008 that is required to repay a total of at least six hundred eighty-five thousand dollars but less than six hundred ninety thousand dollars pursuant to subsection A of this section.

2. A unified school district with a student count of at least two thousand but less than three thousand in fiscal year 2007-2008 that is required to repay a total of at least three hundred sixty thousand dollars but less than three hundred eighty thousand dollars pursuant to subsection A of this section.

C. If the amount a school district is required to repay under subsection B, paragraph 1 or 2 of this section is reduced as the result of a settlement agreement between the school district and the department of education, the school district shall repay the amount required by the settlement agreement within five years after the date of the audit finding.

D. This section is effective retroactively to September 21, 2006.

Sec. 60. State trust land proceeds for public education purposes; fiscal year 2009-2010

Notwithstanding any other law, for fiscal year 2009-2010:

1. The school facilities board shall distribute monies credited pursuant to section 37-221, Arizona Revised Statues, to the school district that funded the lease agreement if the school district was approved for new school facilities pursuant to section 15-2041, Arizona Revised Statutes, but was not awarded monies for new school facilities because of the new school construction moratorium.

2. The state land department shall notify the school facilities board and the affected school districts of the amounts transferred pursuant to section 37-221, subsection D, Arizona Revised Statues, and the source of the monies transferred and shall identify the specific school districts by the amounts transferred and the source of the monies transferred.

Sec. 61. Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the commission for postsecondary education to:

1. Conduct, supervise and coordinate the review of public and private postsecondary education institutions in this state to determine their eligibility for student financial aid monies.

2. Administer specifically identified federal and state financial aid programs.

3. Provide a forum to public and private postsecondary education institutions for discussion of issues of mutual interest.

4. Coordinate and promote studies of interest to postsecondary institutions.

5. Provide information to the public on postsecondary education opportunities in this state.

Sec. 62. Intent

The legislature intends by enacting section 15-257, Arizona Revised Statutes, as added by this act, to allow the superintendent of public instruction to develop a performance pay system for employees of the department of education to boost productivity and instill a sense of shared responsibility among employees.

Sec. 63. Retroactivity

Section 15-1042, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after June 30, 2009.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.