House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
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CHAPTER 117

HOUSE BILL 2057

AN ACT

AMENDING SECTION 13-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST SPECIAL SESSION, CHAPTER 5, SECTION 2; REPEALING SECTION 13-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 125, SECTION 1; AMENDING SECTION 15-213.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 101, SECTION 1; REPEALING SECTION 15-213.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 101, SECTION 2; AMENDING SECTION 15-342, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 14, SECTION 2 AND CHAPTER 101, SECTION 3 AND LAWS 2009, THIRD SPECIAL SESSION, CHAPTER 12, SECTION 10; REPEALING SECTION 15-342, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 101, SECTION 4; AMENDING SECTION 28-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 294, SECTION 6; REPEALING SECTION 28-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 187, SECTION 25; AMENDING SECTION 28-5801, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 291, SECTION 1 AND CHAPTER 294, SECTION 10; REPEALING SECTION 28-5801, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 187, SECTION 43; AMENDING SECTION 34-201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 101, SECTION 6; REPEALING SECTION 34-201, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 101, SECTION 7; AMENDING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 173, SECTION 1 AND CHAPTER 300, SECTION 4; REPEALING SECTION 41-619.51, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 8, SECTION 12; AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS

AMENDED BY LAWS 2008, CHAPTER 254, SECTION 3; REPEALING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 46, SECTION 1; PROVIDING FOR THE CONDITIONAL REPEAL OF TITLE 5, CHAPTER 9, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 15-1474, ARIZONA REVISED STATUTES; REPEALING LAWS 2004, CHAPTER 121, SECTION 1, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 150, SECTION 37; REPEALING LAWS 2004, CHAPTER 121, SECTION 2, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 150, SECTION 38; REPEALING LAWS 2006, CHAPTER 350, SECTION 5, AS AMENDED BY LAWS 2009, FIRST REGULAR SESSION, CHAPTER 13, SECTION 3; REPEALING LAWS 2009, FIRST REGULAR SESSION, CHAPTER 59, SECTION 3; REPEALING LAWS 2009, FIRST REGULAR SESSION, CHAPTER 95, SECTION 61; REPEALING LAWS 2009, FIRST REGULAR SESSION, CHAPTER 122, SECTION 3; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY AND TEMPORARY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Purpose

1. Section 13-901, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 125, section 1. However, this version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 13-901, Arizona Revised Statutes, as amended by Laws 2009, first special session, chapter 5, section 2, to incorporate the amendments made by Laws 2009, first regular session, chapter 125 and the chapter 125 version is repealed.

2. Section 15-213.01, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 101, section 1 and that version was amended by Laws 2009, first regular session, chapter 101, section 2. However, the section 2 version did not correctly reflect the section 1 version. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 15-213.01, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 1, to incorporate the amendments made by Laws 2009, first regular session, chapter 101, section 2 and the section 2 version is repealed.

3. Section 15-342, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 14, section 2 and chapter 101, sections 3 and 4 and Laws 2009, third special session, chapter 12, section 10. The Laws 2009, first regular session, chapter 101, section 4 version could not be blended because of the delayed effective date. In order to combine these versions, this act amends the Laws 2009, first regular session, chapter 14, section 2 and chapter 101, section 3 and Laws 2009, third special session, chapter 12, section 10 version of section 15-342, Arizona Revised Statutes, to incorporate the amendments made by Laws 2009, first regular session, chapter 101, section 4 and the section 4 version is repealed.

4. Section 28-2003, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 187, section 25. However, this version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 28-2003, Arizona Revised Statutes, as amended by Laws 2008, chapter 294, section 6, to incorporate the amendments made by Laws 2009, first regular session, chapter 187 and the chapter 187 version is repealed.

5. Section 28-5801, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 187, section 43. However, this version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 28-5801, Arizona Revised Statutes, as amended by Laws 2008, chapter 291, section 1 and chapter 294, section 10, to incorporate the amendments made by Laws 2009, first regular session, chapter 187 and the chapter 187 version is repealed.

6. Section 34-201, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 101, section 6 and that version was amended by Laws 2009, first regular session, chapter 101, section 7. However, the section 7 version did not correctly reflect the section 6 version. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 34-201, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 6, to incorporate the amendments made by Laws 2009, first regular session, chapter 101, section 7 and the section 7 version is repealed.

7. Section 41-619.51, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 8, section 12. However, this version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 41-619.51, Arizona Revised Statutes, as amended by Laws 2008, chapter 173, section 1 and chapter 300, section 4, to incorporate the amendments made by Laws 2009, first regular session, chapter 8 and the chapter 8 version is repealed.

8. Section 41-2083, Arizona Revised Statutes, was amended by Laws 2009, first regular session, chapter 46, section 1. However, this version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 41-2083, Arizona Revised Statutes, as amended by Laws 2008, chapter 254, section 3, to incorporate the amendments made by Laws 2009, first regular session, chapter 46 and the chapter 46 version is repealed.

9. Laws 2009, first regular session, chapter 122, section 3 provided for the conditional repeal of title 5, chapter 9, Arizona Revised Statutes. However, the conditional repeal of title 5, chapter 9, Arizona Revised Statutes, was not included in the title of the act in violation of article IV, part 2, section 13, Constitution of Arizona. In order to correct a potentially defective enactment, this act provides for the conditional repeal of title 5, chapter 9, Arizona Revised Statutes, and repeals Laws 2009, first regular session, chapter 122, section 3.

10. Laws 2009, first regular session, chapter 59, section 3 provided for the delayed repeal of section 15-1474, Arizona Revised Statutes. However, the repeal of section 15-1474, Arizona Revised Statutes, was not included in the title of the act in violation of article IV, part 2, section 13, Constitution of Arizona. In order to correct a potentially defective enactment, this act provides for the delayed repeal of section 15-1474, Arizona Revised Statutes, and repeals Laws 2009, first regular session, chapter 59, section 3.

11. Laws 2009, first regular session, chapter 136, section 1 and Laws 2009, first regular session, chapter 150, section 37 amended Laws 2004, chapter 121, section 1 in an identical manner. In order to eliminate the double amendment activity, this act repeals Laws 2004, chapter 121, section 1, as amended by Laws 2009, first regular session, chapter 150, section 37.

12. Laws 2009, first regular session, chapter 136, section 2 and Laws 2009, first regular session, chapter 150, section 38 amended Laws 2004, chapter 121, section 2 in an identical manner. In order to eliminate the double amendment activity, this act repeals Laws 2004, chapter 121, section 2, as amended by Laws 2009, first regular session, chapter 150, section 38.

13. Laws 2009, first regular session, chapter 13, section 3 and Laws 2009, first regular session, chapter 111,. section 2 amended Laws 2006, chapter 350, section 5 in an identical manner. In order to eliminate the double amendment activity, this act repeals Laws 2006, chapter 350, section 5, as amended by Laws 2009, first regular session, chapter 13, section 3.

14. Laws 2009, first regular session, chapter 58, section 3 and Laws 2009, first regular session, chapter 95, section 61 added identical language. In order to eliminate the double enactment activity, this act repeals Laws 2009, first regular session, chapter 95, section 61.

Sec. 2. Section 13-901, Arizona Revised Statutes, as amended by Laws 2009, first special session, chapter 5, section 2, is amended to read:

13-901. Probation

A. If a person who has been convicted of an offense is eligible for probation, the court may suspend the imposition or execution of sentence and, if so, shall without delay place the person on intensive probation supervision pursuant to section 13-913 or supervised or unsupervised probation on such terms and conditions as the law requires and the court deems appropriate, including participation in any programs authorized in title 12, chapter 2, article 11. If a person is not eligible for probation, imposition or execution of sentence shall not be suspended or delayed. If the court imposes probation, it may also impose a fine as authorized by chapter 8 of this title. If probation is granted the court shall impose a condition that the person waive extradition for any probation revocation procedures and it shall order restitution pursuant to section 13-603, subsection C where there is a victim who has suffered economic loss. When granting probation to an adult the court, as a condition of probation, shall assess a monthly fee of not less than sixty-five dollars unless, after determining the inability of the probationer to pay the fee, the court assesses a lesser fee. THIS FEE IS NOT SUBJECT TO ANY SURCHARGE. In justice and municipal courts the fee shall only be assessed when the person is placed on supervised probation. For persons placed on probation in the superior court, the fee shall be paid to the clerk of the superior court and the clerk of the court shall pay all monies collected from this fee to the county treasurer for deposit in the adult probation services fund established by section 12-267. For persons placed on supervised probation in the justice court, the fee shall be paid to the justice court and the justice court shall transmit all of the monies to the county treasurer for deposit in the adult probation services fund established by section 12-267. For persons placed on supervised probation in the municipal court, the fee shall be paid to the municipal court. The municipal court shall transmit all of the monies to the

city treasurer who shall transmit the monies to the county treasurer for deposit in the adult probation services fund established by section 12-267. Any amount assessed pursuant to this subsection shall be used to supplement monies used for the salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

B. The period of probation shall be determined according to section 13-902, except that if a person is released pursuant to section 31-233, subsection B and community supervision is waived pursuant to section 13-603, subsection K, the court shall extend the period of probation by the amount of time the director of the state department of corrections approves for the inmate's temporary release.

C. The court, in its discretion, may issue a warrant for the rearrest of the defendant and may modify or add to the conditions or, if the defendant commits an additional offense or violates a condition, may revoke probation in accordance with the rules of criminal procedure at any time before the expiration or termination of the period of probation. If the court revokes the defendant's probation and the defendant is serving more than one probationary term concurrently, the court may sentence the person to terms of imprisonment to be served consecutively.

D. At any time during the probationary term of the person released on probation, any probation officer, without warrant or other process and at any time until the final disposition of the case, may rearrest any person and bring the person before the court.

E. The court, on its own initiative or on application of the probationer, after notice and an opportunity to be heard for the prosecuting attorney and, on request, the victim, may terminate the period of probation or intensive probation and discharge the defendant at a time earlier than that originally imposed if in the court's opinion the ends of justice will be served and if the conduct of the defendant on probation warrants it.

F. When granting probation the court may require that the defendant be imprisoned in the county jail at whatever time or intervals, consecutive or nonconsecutive, the court shall determine, within the period of probation, as long as the period actually spent in confinement does not exceed one year or the maximum period of imprisonment permitted under chapter 7 of this title, whichever is the shorter.

G. If restitution is made a condition of probation, the court shall fix the amount of restitution and the manner of performance pursuant to chapter 8 of this title.

H. When granting probation, the court shall set forth at the time of sentencing and on the record the factual and legal reasons in support of each sentence.

I. If the defendant meets the criteria set forth in section 13-901.01 or 13-3422, the court may place the defendant on probation pursuant to either section. If a defendant is placed on probation pursuant to section 13-901.01

or 13-3422, the court may impose any term of probation that is authorized pursuant to this section and that is not in violation of section 13-901.01.

Sec. 3. Repeal

Section 13-901, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 125, section 1, is repealed.

Sec. 4. Section 15-213.01, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 1, is amended to read:

15-213.01. Procurement practices; guaranteed energy cost savings contracts; definitions

A. Notwithstanding section 15-213, subsection A, a school district may contract for the procurement of a guaranteed energy cost savings contract with a qualified provider through a competitive sealed proposal process as provided by the procurement practices adopted by the state board of education. TO THE EXTENT THE QUALIFIED PROVIDER SUBCONTRACTS WITH CONTRACTORS WHO WILL BE INVOLVED IN ANY CONSTRUCTION ASSOCIATED WITH THE GUARANTEED ENERGY COST SAVINGS CONTRACT, THE QUALIFIED PROVIDER MUST FOLLOW THE PROVISIONS OF SECTION 41-2533 IN SELECTING THESE CONTRACTORS.

B. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if it determines that the amount it would spend on the energy cost savings measures recommended in the proposal would not exceed the amount to be saved in energy and operational costs over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter, after the date installation or implementation is complete, if the recommendations in the proposal are followed. ~~The school district shall retain the cost savings achieved by a guaranteed energy cost saving contract, and these cost savings may be used to pay for the contract and project implementation. A school district shall not use excess utilities monies for the contract or for project implementation.~~

C. The school district shall use objective criteria in selecting the qualified provider, including the cost of the contract, the energy and operational cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope. The school district shall set forth each criterion with its respective numerical weighting in the request for proposal.

D. In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified provider may develop and use a prequalification process for contractors WISHING TO BID ON THIS WORK. These prequalifications may require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job. THE QUALIFIED PROVIDER MAY USE PERFORMANCE SPECIFICATIONS IN SOLICITING BIDS FROM CONTRACTORS.

E. ~~A~~ AN IN-DEPTH FEASIBILITY study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. This report shall be reviewed and approved by the school district before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved IN-DEPTH FEASIBILITY study to the ~~school facilities board and the department of commerce energy office~~ SUPERINTENDENT OF PUBLIC INSTRUCTION.

F. The guaranteed energy cost savings contract shall require that A QUALIFIED PROVIDER PERFORM AN ENERGY AUDIT OF THE FACILITY OR FACILITIES ONE YEAR AFTER THE ENERGY COST SAVINGS MEASURES ARE INSTALLED OR IMPLEMENTED AND EVERY THREE YEARS THEREAFTER FOR THE LENGTH OF THE CONTRACT. THE QUALIFIED PROVIDER SHALL TRANSMIT A COPY OF THE AUDIT TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION. THE QUALIFIED PROVIDER SHALL PAY THE COST OF THE AUDIT. In determining whether the projected energy savings calculations have been met, the energy or operational cost savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed and operational costs avoided after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:

1. Changes in utility rates.
2. Changes in the number of days in the utility billing cycle.
3. Changes in the square footage of the facility.
4. Changes in the operational schedule of the facility.
5. Changes in facility temperature.
6. Significant changes in the weather.
7. Significant changes in the amount of equipment or lighting utilized in the facility.
~~8. Significant changes in the nature or intensity of energy use such as the change of classroom space to laboratory space.~~

G. The information to develop the energy baseline shall be derived from actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The measurements shall be taken in the year preceding the installation or implementation of energy cost savings measures.

H. When submitting a proposal for the installation of equipment, the qualified provider shall include information on the projected energy savings associated with each proposed energy cost savings measure.

I. A school district, or two or more school districts, may enter into an installment payment contract or lease-purchase agreement with a qualified provider for the purchase and installation or implementation of energy cost savings measures. The guaranteed energy cost savings contract may provide for payments over a period of not more than the expected life of the energy cost savings measures implemented or twenty-five years, whichever is shorter.

The contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made over time.

J. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational costs savings, or both, will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter. The qualified provider shall~~:~~

~~1. For the first three years of savings, prepare a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.~~

~~2.~~ reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.

K. The school district may obtain any required financing as part of the original competitive sealed proposal process ~~from the qualified provider or a third-party financing institution~~.

L. A qualified provider that is awarded the contract shall give a sufficient bond to the school district for its faithful performance of the equipment installment.

M. WHEN SELECTING SUBCONTRACTORS TO PERFORM CONSTRUCTION WORK, the qualified provider is required to make public information in the subcontractor's bids only if the qualified provider is awarded the guaranteed energy cost savings contract by the school district.

~~N. For all projects carried out under this section, the district shall report to the department of commerce energy office and the school facilities board:~~

~~1. The name of the project.~~

~~2. The qualified provider.~~

~~3. The total cost of the project.~~

~~4. The expected energy and cost savings.~~

~~O. For all projects carried out under this section, the district shall report to the school facilities board, by October 15 each year, the actual energy and cost savings.~~

~~P.~~ N. This section does not apply to the construction of new buildings.

~~Q. A school district may utilize a simplified energy performance contract for projects less than five hundred thousand dollars. Simplified energy performance contracts are not required to include an energy savings guarantee and shall comply with all requirements in this section except for the requirements that are specifically related to the energy savings guarantee and the measurement and verification of the guaranteed savings.~~

~~R.~~ O. For the purposes of this section:

1. "Construction" means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any school district real property.

Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

2. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.

3. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption or operating costs and may include one or more of the following~~, and any related meters or other measuring devices~~:

(a) Insulating the building structure or systems in the building.

(b) Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.

(c) Automated or computerized energy control systems.

(d) Heating, ventilating or air conditioning system modifications or replacements.

(e) Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made.

(f) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements.

(g) Energy recovery systems.

(h) Installing a new or retrofitting an existing day lighting system.

(i) Any life safety measures that provide long-term operating cost reductions and that comply with state and local codes.

(j) Implementing operation programs through education, training and software that reduce the operating costs.

~~(k) Procurement of low-cost utility supplies of all types, including electricity, natural gas, propane and water.~~

~~(l) Devices that reduce water consumption and water costs or that reduce sewer charges.~~

~~(m) Rainwater harvesting systems.~~

~~(n) Combined heat and power systems.~~

~~(o) Renewable and alternative energy projects and renewable energy power service agreements.~~

~~(p) Self-generation systems.~~

~~(q) Any additional building systems and infrastructure that produce energy, or that provide utility or operational cost savings not specifically mentioned in this paragraph, if the improvements meet the life cycle cost requirement and enhance building system performance or occupant comfort and safety.~~

4. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.

~~5. "Life cycle cost" means the sum of present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs and disposal costs over the life of the project, product or measure as provided by federal life cycle cost rules, regulations and criteria contained in the United States department of energy federal energy management program "guidance on life-cycle cost analysis" required by executive order 13423, January 2007.~~

~~6.~~ 5. "Operational savings" means reductions in actual budget line items currently being expended or savings realized from the implementation or installation of energy cost savings measures.

~~7.~~ 6. "Qualified provider" means a person or a business experienced in designing, implementing or installing energy cost savings measures.

Sec. 5. Repeal

Section 15-213.01, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 2, is repealed.

Sec. 6. Section 15-342, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 14, section 2 and chapter 101, section 3 and Laws 2009, third special session, chapter 12, section 10, is amended to read:

15-342. Discretionary powers

The governing board may:

1. Expel pupils for misconduct.

2. Exclude from grades one through eight children under six years of age.

3. Make such separation of groups of pupils as it deems advisable.

4. Maintain such special schools during vacation as deemed necessary for the benefit of the pupils of the school district.

5. Permit a superintendent or principal or representatives of the superintendent or principal to travel for a school purpose, as determined by a majority vote of the board. The board may permit members and members-elect of the board to travel within or without the school district for a school purpose and receive reimbursement. Any expenditure for travel and subsistence pursuant to this paragraph shall be as provided in title 38, chapter 4, article 2. The designated post of duty referred to in section 38-621 shall be construed, for school district governing board members, to be the member's actual place of residence, as opposed to the school district office or the school district boundaries. Such expenditures shall be a charge against the budgeted school district funds. The governing board of a school district shall prescribe procedures and amounts for reimbursement of lodging and subsistence expenses. Reimbursement amounts shall not exceed the maximum amounts established pursuant to section 38-624, subsection C.

6. Construct or provide in rural districts housing facilities for teachers and other school employees which the board determines are necessary for the operation of the school.

7. Sell or lease to the state, a county, a city or a tribal government agency any school property required for a public purpose, provided the sale or lease of the property will not affect the normal operations of a school within the school district.

8. Annually budget and expend funds for membership in an association of school districts within this state.

9. Enter into leases or lease-purchase agreements for school buildings or grounds, or both, as lessor or as lessee, for periods of less than five years subject to voter approval for construction of school buildings as prescribed in section 15-341, subsection A, paragraph 7.

10. Subject to chapter 16 of this title, sell school sites or enter into leases or lease-purchase agreements for school buildings and grounds, as lessor or as lessee, for a period of five years or more, but not to exceed ninety-nine years, if authorized by a vote of the school district electors in an election called by the governing board as provided in section 15-491, except that authorization by the school district electors in an election is not required if one of the following requirements is met:

(a) The market value of the school property is less than fifty thousand dollars ~~or the property is procured through an energy performance contract, which among other items includes a renewable energy power service agreement, or a simplified energy performance contract pursuant to section 15-213.01~~.

(b) The buildings and sites are completely funded with monies distributed by the school facilities board.

(c) The transaction involves the sale of improved or unimproved property pursuant to an agreement with the school facilities board in which the school district agrees to sell the improved or unimproved property and transfer the proceeds of the sale to the school facilities board in exchange for monies from the school facilities board for the acquisition of a more suitable school site. For a sale of property acquired by a school district prior to July 9, 1998, a school district shall transfer to the school facilities board that portion of the proceeds that equals the cost of the acquisition of a more suitable school site. If there are any remaining proceeds after the transfer of monies to the school facilities board, a school district shall only use those remaining proceeds for future land purchases approved by the school facilities board, or for capital improvements not funded by the school facilities board for any existing or future facility.

(d) The transaction involves the sale of improved or unimproved property pursuant to a formally adopted plan and the school district uses the proceeds of this sale to purchase other property that will be used for similar purposes as the property that was originally sold, provided that the sale proceeds of the improved or unimproved property are used within two years after the date of the original sale to purchase the replacement property. If the sale proceeds of the improved or unimproved property are

not used within two years after the date of the original sale to purchase replacement property, the sale proceeds shall be used towards payment of any outstanding bonded indebtedness. If any sale proceeds remain after paying for outstanding bonded indebtedness, or if the district has no outstanding bonded indebtedness, sale proceeds shall be used to reduce the district's primary tax levy. A school district shall not use this subdivision unless all of the following conditions exist:

(i) The school district is the sole owner of the improved or unimproved property that the school district intends to sell.

(ii) The school district did not purchase the improved or unimproved property that the school district intends to sell with monies that were distributed pursuant to chapter 16 of this title.

(iii) The transaction does not violate section 15-341, subsection G.

11. Review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school. The pupil has the burden of proof to overturn the decision of a teacher to promote, retain, pass or fail the pupil. In order to sustain the burden of proof, the pupil shall demonstrate to the governing board that the pupil has mastered the academic standards adopted by the state board of education pursuant to sections 15-701 and 15-701.01. If the governing board overturns the decision of a teacher pursuant to this paragraph, the governing board shall adopt a written finding that the pupil has mastered the academic standards. Notwithstanding title 38, chapter 3, article 3.1, the governing board shall review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school in executive session unless a parent or legal guardian of the pupil or the pupil, if emancipated, disagrees that the review should be conducted in executive session and then the review shall be conducted in an open meeting. If the review is conducted in executive session, the board shall notify the teacher of the date, time and place of the review and shall allow the teacher to be present at the review. If the teacher is not present at the review, the board shall consult with the teacher before making its decision. Any request, including the written request as provided in section 15-341, the written evidence presented at the review and the written record of the review, including the decision of the governing board to accept or reject the teacher's decision, shall be retained by the governing board as part of its permanent records.

12. Provide transportation or site transportation loading and unloading areas for any child or children if deemed for the best interest of the district, whether within or without the district, county or state.

13. Enter into intergovernmental agreements and contracts with school districts or other governing bodies as provided in section 11-952. Intergovernmental agreements and contracts between school districts or between a school district and other governing bodies as provided in section

11-952 are exempt from competitive bidding under the procurement rules adopted by the state board of education pursuant to section 15-213.

14. Include in the curricula which it prescribes for high schools in the school district career and technical education, vocational education and technology education programs and career and technical, vocational and technology program improvement services for the high schools, subject to approval by the state board of education. The governing board may contract for the provision of career and technical, vocational and technology education as provided in section 15-789.

15. Suspend a teacher or administrator from the teacher's or administrator's duties without pay for a period of time of not to exceed ten school days, if the board determines that suspension is warranted pursuant to section 15-341, subsection A, paragraphs 21 and 22.

16. Dedicate school property within an incorporated city or town to such city or town or within a county to that county for use as a public right-of-way if both of the following apply:

(a) Pursuant to an ordinance adopted by such city, town or county, there will be conferred upon the school district privileges and benefits which may include benefits related to zoning.

(b) The dedication will not affect the normal operation of any school within the district.

17. Enter into option agreements for the purchase of school sites.

18. Donate surplus or outdated learning materials to nonprofit community organizations where the governing board determines that the anticipated cost of selling the learning materials equals or exceeds the estimated market value of the materials.

19. Prescribe policies for the assessment of reasonable fees for students to use district-provided parking facilities. The fees are to be applied by the district solely against costs incurred in operating or securing the parking facilities. Any policy adopted by the governing board pursuant to this paragraph shall include a fee waiver provision in appropriate cases of need or economic hardship.

20. Establish alternative educational programs that are consistent with the laws of this state to educate pupils, including pupils who have been reassigned pursuant to section 15-841, subsection E or F.

21. Require a period of silence to be observed at the commencement of the first class of the day in the schools. If a governing board chooses to require a period of silence to be observed, the teacher in charge of the room in which the first class is held shall announce that a period of silence not to exceed one minute in duration will be observed for meditation, and during that time no activities shall take place and silence shall be maintained.

22. Require students to wear uniforms.

23. Exchange unimproved property or improved property, including school sites, where the governing board determines that the improved property is unnecessary for the continued operation of the school district without

requesting authorization by a vote of the school district electors if the governing board determines that the exchange is necessary to protect the health, safety or welfare of pupils or when the governing board determines that the exchange is based on sound business principles for either:

(a) Unimproved or improved property of equal or greater value.

(b) Unimproved property that the owner contracts to improve if the value of the property ultimately received by the school district is of equal or greater value.

24. For common and high school pupils, assess reasonable fees for optional extracurricular activities and programs conducted when the common or high school is not in session, except that no fees shall be charged for pupils' access to or use of computers or related materials. For high school pupils, the governing board may assess reasonable fees for fine arts and vocational education courses and for optional services, equipment and materials offered to the pupils beyond those required to successfully complete the basic requirements of any other course, except that no fees shall be charged for pupils' access to or use of computers or related materials. Fees assessed pursuant to this paragraph shall be adopted at a public meeting after notice has been given to all parents of pupils enrolled at schools in the district and shall not exceed the actual costs of the activities, programs, services, equipment or materials. The governing board shall authorize principals to waive the assessment of all or part of a fee assessed pursuant to this paragraph if it creates an economic hardship for a pupil. For the purposes of this paragraph, "extracurricular activity" means any optional, noncredit, educational or recreational activity which supplements the education program of the school, whether offered before, during or after regular school hours.

25. Notwithstanding section 15-341, subsection A, paragraphs 7 and 9, construct school buildings and purchase or lease school sites, without a vote of the school district electors, if the buildings and sites are totally funded from one or more of the following:

(a) Monies in the unrestricted capital outlay fund, except that the estimated cost shall not exceed two hundred fifty thousand dollars for a district that utilizes section 15-949.

(b) Monies distributed from the school facilities board established by section 15-2001.

(c) Monies specifically donated for the purpose of constructing school buildings.

Nothing in this paragraph shall be construed to eliminate the requirement for an election to raise revenues for a capital outlay override pursuant to section 15-481 or a bond election pursuant to section 15-491.

26. Conduct a background investigation that includes a fingerprint check conducted pursuant to section 41-1750, subsection G for certificated personnel and personnel who are not paid employees of the school district, as a condition of employment. A school district may release the results of a

background check to another school district for employment purposes. The school district may charge the costs of fingerprint checks to its fingerprinted employee, except that the school district may not charge the costs of fingerprint checks for personnel who are not paid employees of the school district.

27. Sell advertising space on the exterior of school buses and on athletic facilities as follows:

(a) Advertisements shall be age appropriate and not contain promotion of any substance that is illegal for minors such as alcohol, tobacco and drugs or gambling. Advertisements shall comply with the state sex education policy of abstinence.

(b) Advertising approved by the governing board may appear only on the sides of the bus in the following areas:

(i) The signs shall be below the seat level rub rail and not extend above the bottom of the side windows.

(ii) The signs shall be at least three inches from any required lettering, lamp, wheel well or reflector behind the service door or stop signal arm.

(iii) The signs shall not extend from the body of the bus so as to allow a handhold or present a danger to pedestrians.

(iv) The signs shall not interfere with the operation of any door or window.

(v) The signs shall not be placed on any emergency doors.

(c) The school district shall establish an advertisement fund that is composed of revenues from the sale of advertising space on school buses and athletic facilities. The monies in an advertisement fund are not subject to reversion.

28. Assess reasonable damage deposits to pupils in grades seven through twelve for the use of textbooks, musical instruments, band uniforms or other equipment required for academic courses. The governing board shall adopt policies on any damage deposits assessed pursuant to this paragraph at a public meeting called for this purpose after providing notice to all parents of pupils in grades seven through twelve in the school district. Principals of individual schools within the district may waive the damage deposit requirement for any textbook or other item if the payment of the damage deposit would create an economic hardship for the pupil. The school district shall return the full amount of the damage deposit for any textbook or other item if the pupil returns the textbook or other item in reasonably good condition within the time period prescribed by the governing board. For the purposes of this paragraph, "in reasonably good condition" means the textbook or other item is in the same or a similar condition as it was when the pupil received it, plus ordinary wear and tear.

29. Notwithstanding section 15-1105, expend surplus monies in the civic center school fund for maintenance and operations or unrestricted capital

1 outlay, if sufficient monies are available in the fund after meeting the
2 needs of programs established pursuant to section 15-1105.
3 30. Notwithstanding section 15-1143, expend surplus monies in the
4 community school program fund for maintenance and operations or unrestricted
5 capital outlay, if sufficient monies are available in the fund after meeting
6 the needs of programs established pursuant to section 15-1142.
7 31. Adopt guidelines for standardization of the format of the school
8 report cards required by section 15-746 for schools within the district.
9 32. Adopt policies that require parental notification when a law
10 enforcement officer interviews a pupil on school grounds. Policies adopted
11 pursuant to this paragraph shall not impede a peace officer from the
12 performance of the peace officer's duties. If the school district governing
13 board adopts a policy that requires parental notification:
14 (a) The policy may provide reasonable exceptions to the parental
15 notification requirement.
16 (b) The policy shall set forth whether and under what circumstances a
17 parent may be present when a law enforcement officer interviews the pupil,
18 including reasonable exceptions to the circumstances under which a parent may
19 be present when a law enforcement officer interviews the pupil, and shall
20 specify a reasonable maximum time after a parent is notified that an
21 interview of a pupil by a law enforcement officer may be delayed to allow the
22 parent to be present.
23 33. Enter into voluntary partnerships with any party to finance with
24 funds other than school district funds and cooperatively design school
25 facilities that comply with the adequacy standards prescribed in section
26 15-2011 and the square footage per pupil requirements pursuant to section
27 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
28 location of any such school facility shall be submitted to the school
29 facilities board for approval pursuant to section 15-2041, subsection O. If
30 the school facilities board approves the design plans and location of any
31 such school facility, the party in partnership with the school district may
32 cause to be constructed and the district may begin operating the school
33 facility before monies are distributed from the school facilities board
34 pursuant to section 15-2041. Monies distributed from the new school
35 facilities fund to a school district in a partnership with another party to
36 finance and design the school facility shall be paid to the school district
37 pursuant to section 15-2041. The school district shall reimburse the party
38 in partnership with the school district from the monies paid to the school
39 district pursuant to section 15-2041, in accordance with the voluntary
40 partnership agreement. Before the school facilities board distributes any
41 monies pursuant to this subsection, the school district shall demonstrate to
42 the school facilities board that the facilities to be funded pursuant to
43 section 15-2041, subsection O meet the minimum adequacy standards prescribed
44 in section 15-2011. If the cost to construct the school facility exceeds the
45 amount that the school district receives from the new school facilities fund,

the partnership agreement between the school district and the other party shall specify that, except as otherwise provided by the other party, any such excess costs shall be the responsibility of the school district. The school district governing board shall adopt a resolution in a public meeting that an analysis has been conducted on the prospective effects of the decision to operate a new school with existing monies from the school district's maintenance and operations budget and how this decision may affect other schools in the school district. If a school district acquires land by donation at an appropriate school site approved by the school facilities board and a school facility is financed and built on the land pursuant to this paragraph, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the land 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 the monies placed in the fund. Monies distributed under this paragraph shall be distributed from the new school facilities fund pursuant to section 15-2041. If a school district acquires land by donation at an appropriate school site approved by the school facilities board and a school facility is financed and built on the land pursuant to this paragraph, the school district shall not receive monies from the school facilities board for the donation of real property pursuant to section 15-2041, subsection F. It is unlawful for:

(a) A county, city or town to require as a condition of any land use approval that a landowner or landowners that entered into a partnership pursuant to this paragraph provide any contribution, donation or gift, other than a site donation, to a school district. This subdivision only applies to the property in the voluntary partnership agreement pursuant to this paragraph.

(b) A county, city or town to require as a condition of any land use approval that the landowner or landowners located within the geographic boundaries of the school subject to the voluntary partnership pursuant to this paragraph provide any donation or gift to the school district except as provided in the voluntary partnership agreement pursuant to this paragraph.

(c) A community facilities district established pursuant to title 48, chapter 4, article 6 to be used for reimbursement of financing the construction of a school pursuant to this paragraph.

(d) A school district to enter into an agreement pursuant to this paragraph with any party other than a master planned community party. Any land area consisting of at least three hundred twenty acres that is the subject of a development agreement with a county, city or town entered into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master planned community. For the purposes of this subdivision, "master planned community" means a land area consisting of at least three hundred twenty acres, which may be noncontiguous, that is the subject of a zoning ordinance approved by the governing body of the county, city or town in which the land

is located that establishes the use of the land area as a planned area development or district, planned community development or district, planned unit development or district or other land use category or district that is recognized in the local ordinance of such county, city or town and that specifies the use of such land is for a master planned development.

34. Sell advertising on the school district website or any website maintained by a school in the school district as follows:

(a) Advertisements shall be age appropriate and not contain promotion of any substance that is illegal for minors, such as alcohol, tobacco and drugs, or gambling. Advertisements shall comply with the state sex education policy of abstinence. The governing board has discretion to decline specific advertisements.

(b) The school district shall establish a website advertisement fund that is composed of revenues from the sale of advertising on the school district website or any website maintained by a school in the school district. The monies in a website advertisement fund are not subject to reversion and shall be used for any pupil related costs as determined by the governing board.

35. Enter into an intergovernmental agreement with a presiding judge of the juvenile court to implement a law related education program as defined in section 15-154. The presiding judge of the juvenile court may assign juvenile probation officers to participate in a law related education program in any school district in the county. The cost of juvenile probation officers who participate in the program implemented pursuant to this paragraph shall be funded by the school district.

Sec. 7. Repeal

Section 15-342, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 4, is repealed.

Sec. 8. Section 28-2003, Arizona Revised Statutes, as amended by Laws 2008, chapter 294, section 6, is amended to read:

28-2003. Fees; vehicle title and registration; identification plate; definition

A. The following fees are required:

1. For each certificate of title, salvage certificate of title, restored salvage certificate of title or nonrepairable vehicle certificate of title, four dollars.

2. For each certificate of title for a mobile home, seven dollars. The director shall deposit three dollars of each fee imposed by this paragraph in the state highway fund established by section 28-6991.

3. Except as provided in section 28-1177, for the registration of a motor vehicle, eight dollars, except that the fee for motorcycles is nine dollars.

4. For a duplicate registration card or any duplicate permit, four dollars.

5. For each special ninety day nonresident registration issued under section 28-2154, fifteen dollars.

6. ~~Except as provided in paragraph 7 of this subsection,~~ For the registration of a trailer or semitrailer that IS NOT A TRAVEL TRAILER AND THAT is ten thousand pounds or less gross vehicle weight AND THAT IS USED IN THE FURTHERANCE OF A COMMERCIAL ENTERPRISE, eight dollars. ~~, and~~

7. For the registration of a trailer or semitrailer that IS NOT A TRAVEL TRAILER AND THAT exceeds ten thousand pounds gross vehicle weight:

(a) On initial registration, a one-time fee of two hundred forty-five dollars.

(b) On renewal of registration or if previously registered in another state, a one-time fee of:

(i) If the trailer's or semitrailer's model year is less than six years old, one hundred forty-five dollars.

(ii) If the trailer's or semitrailer's model year is at least six years old, ninety-five dollars.

~~7.~~ 8. For the registration of a noncommercial trailer that is not a travel trailer and that is ~~less than six~~ TEN thousand pounds OR LESS gross vehicle weight:

(a) On initial registration, a one-time fee of twenty dollars.

(b) On renewal of registration, a one-time fee of five dollars.

~~8.~~ 9. For a transfer of a noncommercial trailer that is not a travel trailer and that is ~~less than six~~ TEN thousand pounds OR LESS gross vehicle weight, twelve dollars.

~~9.~~ 10. For each special ninety day resident registration issued under section 28-2154, fifteen dollars.

~~10.~~ 11. For each one trip registration permit issued under section 28-2155, one dollar.

~~11.~~ 12. For each temporary general use registration issued under section 28-2156, fifteen dollars.

~~12.~~ 13. For each identification plate bearing a serial or identification number to be affixed to any vehicle, five dollars.

B. For the purposes of this section, "travel trailer" means a trailer that is:

1. Mounted on wheels.

2. Designed to provide temporary living quarters for recreational, camping or travel use.

3. Less than eight feet in width and less than forty feet in length.

Sec. 9. <u>Repeal</u>

Section 28-2003, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 187, section 25, is repealed.

1 Sec. 10. Section 28-5801, Arizona Revised Statutes, as amended by Laws
2 2008, chapter 291, section 1 and chapter 294, section 10, is amended to read:
3 28-5801. Vehicle license tax rate
4 A. At the time of application for and before registration each year of
5 a vehicle, the registering officer shall collect the vehicle license tax
6 imposed by article IX, section 11, Constitution of Arizona. On the
7 taxpayer's vehicle license tax bill, the registering officer shall provide
8 the taxpayer with the following:
9 1. Information showing the amount of the vehicle license tax that each
10 category of recipient will receive and the amount that is owed by the
11 taxpayer.
12 2. The amount of vehicle license tax the taxpayer would pay pursuant
13 to section 28-5805 if the taxpayer's motor vehicle was powered by alternative
14 fuel.
15 B. Except as provided in subsections C, D and E of this section:
16 1. During the first twelve months of the life of a vehicle as
17 determined by its initial registration, the vehicle license tax is based on
18 each one hundred dollars in value, the value of the vehicle is sixty per cent
19 of the manufacturer's base retail price of the vehicle and the vehicle
20 license tax rate for each of the recipients is as follows:
21 (a) The rate for the Arizona highway user revenue fund is one dollar
22 twenty-six cents.
23 (b) The rate for the county general fund is sixty-nine cents.
24 (c) The rate for counties for any purposes related to transportation,
25 as determined by the board of supervisors, is sixteen cents.
26 (d) The rate for incorporated cities and towns is sixty-nine cents.
27 2. During each succeeding twelve month period, the vehicle license tax
28 is based on each one hundred dollars in value, the value of the vehicle is
29 16.25 per cent less than the value for the preceding twelve month period and
30 the vehicle license tax rate for each of the recipients is as follows:
31 (a) The rate for the Arizona highway user revenue fund is one dollar
32 thirty cents.
33 (b) The rate for the county general fund is seventy-one cents.
34 (c) The rate for counties for the same use as highway user revenue
35 fund monies is seventeen cents.
36 (d) The rate for incorporated cities and towns is seventy-one cents.
37 3. The minimum amount of the vehicle license tax computed under this
38 section is ten dollars per year for each vehicle that is subject to the tax.
39 If the product of all of the rates prescribed in paragraph 1 or 2 of this
40 subsection is less than ten dollars, the vehicle license tax is ten dollars.
41 The vehicle license tax collected pursuant to this paragraph shall be
42 distributed to the recipients prescribed in this subsection based on the
43 percentage of each recipient's rate to the sum of all of the rates.

C. The vehicle license tax is as follows for noncommercial trailers that are not travel trailers and that are ~~less than six~~ TEN thousand pounds OR LESS gross vehicle weight:

1. On initial registration, a one-time vehicle license tax of one hundred five dollars.

2. On renewal of registration, a one-time vehicle license tax of seventy dollars.

D. The vehicle license tax is as follows for a trailer or semitrailer that IS NOT A TRAVEL TRAILER AND THAT exceeds ten thousand pounds gross vehicle weight:

1. On initial registration, a one-time vehicle license tax of five hundred fifty-five dollars.

2. On renewal of registration or if previously registered in another state, a one-time vehicle license tax of:

(a) If the trailer's or semitrailer's model year is less than six years old, three hundred fifty-five dollars.

(b) If the trailer's or semitrailer's model year is at least six years old, one hundred dollars.

E. The vehicle license tax for an all-terrain vehicle or off-highway vehicle as defined in section 28-1171 is three dollars if the all-terrain vehicle or off-highway vehicle meets both of the following criteria:

1. Is designed by the manufacturer primarily for travel over unimproved terrain.

2. Has an unladen weight of eighteen hundred pounds or less.

F. The vehicle license tax collected pursuant to subsection C, D or E of this section shall be distributed to the recipients prescribed in subsection B of this section based on the percentage of each recipient's rate to the sum of all of the rates.

G. For the purposes of subsection C AND D of this section, "travel trailer" has the same meaning prescribed in section 28-2003.

Sec. 11. Repeal

Section 28-5801, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 187, section 43, is repealed.

Sec. 12. Section 34-201, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 6, is amended to read:

34-201. Notice of intention to receive bids and enter contract; procedure; doing work without advertising for bids; county compliance

A. Except as provided in subsections B through G and L of this section, every agent, on acceptance and approval of the working drawings and specifications, shall publish a notice to contractors of intention to receive bids and contract for the proposed work. This notice shall be published by advertising in a newspaper of general circulation in the county in which the agent is located for two consecutive publications if it is a weekly newspaper

or for two publications that are at least six but no more than ten days apart if it is a daily newspaper. The notice shall state:

1. The nature of the work required, the type, purpose and location of the proposed building and where the plans, specifications and full information as to the proposed work may be obtained.

2. That contractors desiring to submit proposals may obtain copies of full or partial sets of plans and specifications for estimate on request or by appointment. The return of such plans and specifications shall be guaranteed by a deposit of a designated amount which shall be refunded on return of the plans and specifications in good order.

3. That every proposal shall be accompanied by a certified check, cashier's check or surety bond for ten per cent of the amount of the bid included in the proposal as a guarantee that the contractor will enter into a contract to perform the proposal in accordance with the plans and specifications. Notwithstanding any other statute, the surety bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the department of insurance pursuant to title 20, chapter 2, article 1. The surety bond shall not be executed by an individual surety or sureties, even if the requirements of section 7-101 are satisfied. The certified check, cashier's check or surety bond shall be returned to the contractors whose proposals are not accepted, and to the successful contractor on the execution of a satisfactory bond and contract as provided in this article. The conditions and provisions of the surety bid bond regarding the surety's obligations shall follow the following form:

> Now, therefore, if the obligee accepts the proposal of the principal and the principal enters into a contract with the obligee in accordance with the terms of the proposal and gives the bonds and certificates of insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the principal to enter into the contract and give the bonds and certificates of insurance, if the principal pays to the obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of section 34-201, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

4. That the right is reserved to reject any or all proposals or to withhold the award for any reason the agent determines.

B. If the agent believes that any construction, building addition or alteration contemplated at a public institution can be advantageously done by the inmates of the public institution and regularly employed help, the agent may cause the work to be done without advertising for bids.

C. Any building, structure, addition or alteration may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work, excluding materials and equipment previously acquired by bid, does not exceed:

1. In fiscal year 1994-1995, fourteen thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

D. Notwithstanding subsection C of this section, any street, road, bridge, water or sewer work, other than a water or sewer treatment plant or building, may be constructed either with or without the use of the agent's regularly employed personnel without advertising for bids, provided that the total cost of the work does not exceed:

1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

E. For the purposes of subsection D of this section, the total cost of water or sewer work does not include services provided by volunteers or donations made for the water or sewer project.

F. Notwithstanding this section, an agent may:

1. Construct, reconstruct, install or repair a natural gas or electric utility and distribution system, owned or operated by such agent, with regularly employed personnel of the agent without advertising for bids, unless otherwise prohibited by charter or ordinance.

2. Construct recreational projects, including trails, playgrounds, ballparks and other similar facilities and excluding buildings, structures, building additions and alterations to buildings, structures and building additions, with volunteer workers or workers provided by a nonprofit organization without advertising for bids for labor and materials, provided that the total cost of the work does not exceed:

(a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

(b) In fiscal year 2002-2003 and each fiscal year thereafter, the amount provided in subdivision (a) adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

G. A contribution by an agent for the financing of public infrastructure made pursuant to a development agreement is exempt from this section if such contribution for any single development does not exceed:

1. In fiscal year 1994-1995, one hundred thousand dollars.

2. In fiscal year 1995-1996 and each fiscal year thereafter, the amount provided in paragraph 1 of this subsection adjusted by the annual percentage change in the GDP price deflator as defined in section 41-563.

H. In addition to other state or local requirements relating to the publication of bids, each agent shall provide at least one set of all plans and specifications to any construction news reporting service that files an annual request with the agent. For the purposes of this subsection, "construction news reporting service" means a service that researches, gathers and disseminates news and reports either in print or electronically, on at least a weekly basis for building projects, construction bids, the purchasing of materials, supplies or services and other construction bidding or planned activity to the allied construction industry. The allied construction industry includes both general and specialty contractors, builders, material and service suppliers, architects and engineers, owners, developers and government agencies.

I. Any construction by a county under this section shall comply with the uniform accounting system prescribed for counties by the auditor general under section 41-1279.21. Any construction by a city or town under this section shall comply with generally accepted accounting principles.

J. Any construction, building addition or alteration project that is financed by monies of this state or its political subdivisions shall not use endangered wood species unless an exemption is granted by the director of the department of administration. The director shall only grant an exemption if the use of endangered wood species is deemed necessary for historical restoration or to repair existing facilities and the use of any substitute material is not practical. Any lease-purchase agreement entered into by this state or its political subdivisions for construction shall specify that no endangered wood species may be used in the construction unless an exemption is granted by the director. For the purposes of this subsection, "endangered wood species" includes those listed in appendix I of the convention on international trade in endangered species of wild flora and fauna.

K. All bonds given by a contractor and surety pursuant to this article, regardless of their actual form, will be deemed by law to be the form required and set forth in this article and no other.

L. Any building, structure, addition or alteration may be constructed without complying with this article if the construction, including construction of buildings or structures on public or private property, is required as a condition of development of private property and is authorized by section 9-463.01 or 11-806.01. For the purposes of this subsection, building does not include police, fire, school, library or other public buildings.

M. Notwithstanding section 34-221, any agent may enter into a guaranteed energy cost savings contract with a qualified provider, AS THOSE TERMS ARE DEFINED IN SECTION 15-213.01, for the purchase of energy cost

savings measures without complying with this article and may procure a guaranteed energy cost savings contract through the competitive sealed proposal process prescribed in title 41, chapter 23, ARTICLE 3 or any similar competitive proposal process adopted by the agent AS LONG AS THE AGENT FOLLOWS ANY ADDITIONAL REQUIREMENTS SET FORTH IN SECTION 15-213.01.

Sec. 13. Repeal

Section 34-201, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 101, section 7, is repealed.

Sec. 14. Section 41-619.51, Arizona Revised Statutes, as amended by Laws 2008, chapter 173, section 1 and chapter 300, section 4, is amended to read:

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Board" means the board of fingerprinting.

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

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

5. "Person" means a person who is required to be fingerprinted pursuant to this article and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 15-183.
(f) Section 15-534.
(g) Section 15-1330.
(h) Section 15-1881.
(i) Section 26-103.
(j) Section 36-411.
(k) Section 36-425.03.
(l) Section 36-446.04.
(m) Section 36-594.01.
(n) Section 36-594.02.
(o) Section 36-882.
(p) Section 36-883.02.
(q) Section 36-897.01.
(r) Section 36-897.03.
(s) Section 36-3008.

(t) SECTION 41-619.53.
~~(t)~~ (u) Section 41-1964.
~~(u)~~ (v) Section 41-1967.01.
~~(v)~~ (w) Section 41-1968.
~~(w)~~ (x) Section 41-1969.
~~(x)~~ (y) Section 41-2814.
~~(y)~~ (z) Section 46-141, subsection A.
~~(z)~~ (aa) Section 46-321.

Sec. 15. Repeal

Section 41-619.51, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 8, section 12, is repealed.

Sec. 16. Section 41-2083, Arizona Revised Statutes, as amended by Laws 2008, chapter 254, section 3, is amended to read:

41-2083. Standards for motor fuel; exceptions

A. Except as provided in section 41-2083.01 and subsections C, D, E, F, G, K and L of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.

C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the director of the department of weights and measures by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A as defined in section 49-541 shall be 9.0 pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.

E. From and after September 30 through March 31 of each year a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume per cent evaporated distillation temperature.

F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand

1 persons or more and any portion of a county contained in area A as defined in
2 section 49-541 shall be 7.0 pounds per square inch from and after May 31
3 through September 30 of each year. Fuel used in motor vehicles at a
4 manufacturer's proving ground or a motor vehicle racing event as defined by
5 section 41-2121 is exempt from this subsection.
6 G. Exclusively for the purposes of transportation conformity and only
7 if the administrator of the United States environmental protection agency
8 fails to approve the applicable plan required pursuant to section 49-406,
9 maximum vapor pressure for gasoline that is supplied or sold by any person
10 and that is intended as a final product for the fueling of motor vehicles in
11 area B as defined in section 49-541 shall be ten pounds per square inch from
12 and after September 30 through March 31 of each year. Fuel used in motor
13 vehicles at a manufacturer's proving ground or a motor vehicle racing event
14 as defined by section 41-2121 is exempt from this subsection.
15 H. Notwithstanding subsections D, F and G of this section, the
16 director of the department of weights and measures in consultation with the
17 director of the department of environmental quality shall approve alternate
18 fuel control measures that are submitted by manufacturers or suppliers of
19 gasoline and that the directors determine will result in either of the
20 following:
21 1. Motor vehicle carbon monoxide emissions that are equal to or less
22 than emissions that result under compliance with subsection D of this section
23 and section 41-2123. In making this determination, the director of the
24 department of weights and measures and the director of the department of
25 environmental quality shall compare the emissions of the alternate fuel
26 control measure with the emissions of a fuel with a maximum vapor pressure
27 standard as prescribed by this section and with the minimum oxygen content or
28 percentage by volume of ethanol as prescribed by section 41-2123.
29 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
30 or less than the emissions that result under compliance with subsection F of
31 this section. In making this determination, the director of the department
32 of weights and measures and the director of the department of environmental
33 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
34 the alternate fuel control measure with the motor vehicle non-methane
35 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
36 standard as prescribed by subsection F of this section.
37 I. Any alternate fuel control measures that are approved shall not
38 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
39 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
40 subsection H of this section and this subsection may be used by any
41 manufacturer or supplier of gasoline unless the approval is rescinded more
42 than one hundred eighty days before the first day of a gasoline control
43 period. Manufacturers and suppliers who use an approved alternate fuel
44 control measure shall annually submit a compliance plan to the director of

the department of weights and measures no later than sixty days before the first day of a gasoline control period.

J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

1. For low sulfur diesel fuel, five hundred parts per million by weight for use in area A as defined in section 49-541.

2. For ultra low sulfur diesel fuel, the amount that conforms with 40 Code of Federal Regulations section 80.520(a)(1).

K. A person shall not sell or offer or expose for sale diesel fuel, BIODIESEL or biodiesel blends that contain sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.

L. ~~Except for biodiesel blends that contain up to five per cent biodiesel,~~ A person shall label dispensers at which biodiesel or BIODIESEL blends ~~of diesel fuel and biodiesel~~ are dispensed ~~in such a manner as to notify other persons of the volume percentage of biodiesel in the finished product and that conforms~~ IN CONFORMANCE with 16 CODE OF FEDERAL REGULATIONS PART 306 AND 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 ~~to inform the customer of the sulfur content of the diesel fuel being dispensed~~. ~~For biodiesel blends that contain~~ THIS SECTION DOES NOT PRECLUDE A PERSON FROM LABELING A DISPENSER THAT DISPENSES DIESEL FUEL THAT CONTAINS up to five per cent biodiesel~~, the label on the dispenser shall state~~ WITH A LABEL THAT STATES "may contain up to five per cent biodiesel".

M. FOR BIODIESEL BLENDS THAT CONTAIN MORE THAN FIVE PER CENT BY VOLUME OF BIODIESEL, a person shall prepare ~~the~~ product transfer documents in a manner that notifies the transferee of ~~any percentage~~ THE PER CENT BY VOLUME of biodiesel in the ~~finished~~ product. FOR DIESEL FUEL THAT CONTAINS FIVE PER CENT OR LESS BY VOLUME OF BIODIESEL, A PERSON SHALL PREPARE PRODUCT TRANSFER DOCUMENTS IN A MANNER THAT NOTIFIES THAT TRANSFEREE OF ANY VOLUME PER CENT OF BIODIESEL INTENTIONALLY ADDED TO OR KNOWN BY THE TRANSFEROR TO BE IN THE PRODUCT.

N. The director shall adopt rules regarding the establishment and enforcement of all of the following:

1. National or federal standards for individual biofuels and biofuel blends.

2. United States environmental protection agency and ASTM test methods for individual biofuels and biofuel blends.

3. Registration and reporting requirements for producers, blenders and suppliers of biofuels and biofuel blends.

4. Labeling requirements for biofuels and biofuel blends other than biodiesel OR BIODIESEL BLENDS.

5. Quality assurance and quality control programs for producers, blenders and suppliers of biofuels and biofuel blends addressing rack, batch or other blending.

6. Requirements that the dispensing equipment meet appropriate UL ratings where available and applicable, that the equipment comply with

rules adopted by the department relating to approval, installation and sale of devices and that the equipment be compatible with the products being dispensed.

O. A biofuels or biofuel blends producer, blender, distributor, supplier or retail seller that is in compliance with this section and the rules adopted pursuant to this section is not liable to a consumer for any injuries or property damage related to a consumer who misfuels.

P. A person shall label each dispenser at which ultra low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

Q. A person shall label each dispenser at which low sulfur diesel fuel is dispensed in a manner that conforms with 40 Code of Federal Regulations sections 80.570, 80.571, 80.572, 80.573 and 80.574 to inform the customer of the sulfur content of the diesel fuel being dispensed.

R. If any person transfers custody or title of a diesel fuel or distillate, except if the diesel fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590.

S. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection ~~Q~~ R of this section as well as the name and address of the final destination for the shipment, as prescribed by department rule, and must accompany the shipment to its final destination.

Sec. 17. Repeal

Section 41-2083, Arizona Revised Statutes, as amended by Laws 2009, first regular session, chapter 46, section 1, is repealed.

Sec. 18. Conditional repeal

A. If a majority of the qualified electors voting on the issue in the first election held pursuant to section 5-1103, Arizona Revised Statutes, reject the levy of taxes and issuance of bonds for the purposes of establishing a sports authority district, title 5, chapter 9, Arizona Revised Statutes, is repealed.

B. The clerk of the board of supervisors that conducts the election shall notify in writing the director of legislative council of the results of the election and whether the condition described in subsection A of this section occurred.

Sec. 19. Delayed repeal

Section 15-1474, Arizona Revised Statutes, is repealed from and after June 30, 2019.

Sec. 20. Repeal

Laws 2004, chapter 121, section 1, as amended by Laws 2009, first regular session, chapter 150, section 37, is repealed.

Sec. 21. Repeal

Laws 2004, chapter 121, section 2, as amended by Laws 2009, first regular session, chapter 150, section 38, is repealed.

Sec. 22. Repeal

Laws 2006, chapter 350, section 5, as amended by Laws 2009, first regular session, chapter 13, section 3, is repealed.

Sec. 23. Repeal

Laws 2009, first regular session, chapter 59, section 3 is repealed.

Sec. 24. Repeal

Laws 2009, first regular session, chapter 95, section 61 is repealed.

Sec. 25. Repeal

Laws 2009, first regular session, chapter 122, section 3 is repealed.

Sec. 26. Retroactive application

A. Section 20 of this act applies retroactively to December 1, 2008.

B. Sections 14 and 15 of this act apply retroactively to June 29, 2009.

C. Sections 19 and 23 of this act apply retroactively to from and after June 30, 2009.

D. Sections 2 and 3 of this act apply retroactively to July 13, 2009.

E. Sections 5, 7, 8, 9, 10, 11, 13, 16, 17, 18, 21, 22, 24 and 25 of this act apply retroactively to September 30, 2009.

Sec. 27. Effective date

Sections 4, 6 and 12 of this act are effective from and after June 30, 2013.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.