

**ARIZONA STATE
SENATE**

Public Service Orientation Program

Applicable Statutes and Rules

**REVISED
2012**

PUBLIC SERVICE ORIENTATION PROGRAM MATERIALS

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PUBLIC SERVICE ORIENTATION PROGRAM

38-591. Definitions

In this chapter, unless the context otherwise requires:

1. "Public service orientation programs" means educational training about laws relating to the proper conduct of public business, including laws relating to bribery, conflicts of interest, contracting with the government, disclosure of confidential information, discrimination, nepotism, financial disclosure, gifts and extra compensation, incompatible employment, misuse of public resources for personal gain, political activity by public employees, public access to records, open meeting laws and conduct after leaving one's position with the government.

2. "State officer" means all individuals elected or appointed to the legislature, a statewide elective position, or a state agency, department, board, commission, committee or council.

38-592. Public service orientation programs; implementation

A. The state shall conduct public service orientation programs so that all state officers and employees receive such training within six months after the date of hire, election or appointment. Each year after their training, all state officers and employees shall receive written information from the public entity responsible for providing the public service orientation program pursuant to subsection B, regarding changes in laws relating to the proper conduct of public business.

B. Public service orientation programs shall be administered as follows:

1. The attorney general shall implement the public service orientation program for all individuals elected or appointed to a statewide elective position and appointed to head a state agency or department.

2. Each house of the legislature shall implement the public service orientation program for members of its respective house and its employees.

3. The supreme court shall implement the public service orientation program for all elected and appointed members and employees of the judicial department.

4. The department of administration shall implement the public service orientation program for appointees and volunteers to all state agencies, departments, boards, commissions, committees and councils and for all other state employees.

**CONSTITUTION OF ARIZONA
PROVISIONS RELATING TO MEMBERSHIP IN THE
LEGISLATURE**

Article 4, Part 2:

4. Disqualification for membership in legislature

Section 4. No person holding any public office of profit or trust under the authority of the United States, or of this state, shall be a member of the legislature; Provided, that appointments in the state militia and the offices of notary public, justice of the peace, United States commissioner, and postmaster of the fourth class, shall not work disqualification for membership within the meaning of this section.

5. Ineligibility of members of legislature to other public offices

Section 5. No member of the legislature, during the term for which he shall have been elected or appointed shall be eligible to hold any other office or be otherwise employed by the state of Arizona or, any county or incorporated city or town thereof. This prohibition shall not extend to the office of school trustee, nor to employment as a teacher or instructor in the public school system.

7. Freedom of debate

Section 7. No member of the legislature shall be liable in any civil or criminal prosecution for words spoken in debate.

8. Organization; officers; rules of procedure

Section 8. Each house, when assembled, shall choose its own officers, judge of the election and qualification of its own members, and determine its own rules of procedure.

11. Disorderly behavior; expulsion of members

Section 11. Each house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds of its members, expel any member.

23. Passes and purchase of transportation by public officers; inapplication to national guard

Section 23. It shall not be lawful for any person holding public office in this state to accept or use a pass or to purchase transportation from any railroad or other corporation, other than as such transportation may be purchased by the general public; Provided, that this shall not apply to members of the national guard of Arizona traveling under orders. The legislature shall enact laws to enforce this provision.

Article 22:

18. Nomination of incumbent public officers to other offices

Section 18. Except during the final year of the term being served, no incumbent of a salaried elective office, whether holding by election or appointment, may offer himself for nomination or election to any salaried local, State or federal office.

SENATE RULES RELATING TO CONDUCT OF MEMBERS

RULE 1 Officers and Employees

A. The officers of the Senate shall be a President, who shall be chosen from among the membership of the Senate, a Secretary, an Assistant Secretary, and a Sergeant at Arms.

B. There shall be such other employees as may be authorized by the Senate. The appointment, terms and conditions of employment, compensation, discipline, and discharge of employees of the Senate shall be determined by the President, subject to the approval of the Senate. Employees of the Senate are prohibited from lobbying during the term of their employment, and a violation of this rule will be sufficient cause for the summary discharge of the offending employees.

RULE 6 Questions of Privilege

Questions of privilege shall be: First, Privilege of the Senate, which relates to the privilege and rights of the Senate collectively, its organization, safety, dignity, comfort and the integrity of its proceedings; second, Personal Privilege, which relates to the rights, reputation and conduct of the members individually in their representative capacity only; third, Personal Privilege which relates to matters personal to the members which may be received only by permission of the Senate or the Presiding Officer. Questions of privilege shall have precedence over all other questions, except motions to adjourn or recess, or the call of the Senate when no quorum is present.

RULE 9 Decorum and Debate

A. When a Senator desires to speak, the Senator shall rise and address the Presiding Officer, and shall not proceed until the Senator is recognized, and the Presiding Officer shall recognize the Senator who shall first address the Presiding Officer. No Senator shall interrupt another Senator in debate without the Senator's consent, and to obtain such consent, the Senator shall first address the Presiding Officer.

B. The Senator who sponsors a measure, or the Senator's designee, shall have the right to open and close debate on such measure.

C. No Senator in debate shall, directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

D. If any Senator, in speaking or otherwise, transgresses the rules of the Senate, the Presiding Officer shall call the Senator to order; and when called to order the Senator shall sit down and not proceed without leave of the Presiding Officer or upon motion adopted by the Senate, that the Senator be allowed to proceed in order, which motion shall be determined without debate.

E. If a Senator be called to order for words spoken in debate, the exceptionable words shall, upon the demand of any Senator, be taken down in writing, and read at the table for the information of the Senate.

F. While the Presiding Officer is putting a question or addressing the Senate, no member shall walk out of or across the Chamber, nor, when a member is speaking, pass between the member and the Chair; nor remain by the Secretary's desk during the call of the roll for the counting of ballots; and the Sergeant at Arms is charged with the strict enforcement of this clause.

RULE 15

Voting

A. When the Ayes and Noes are ordered, the names of Senators shall be called alphabetically, and each Senator shall without debate, declare the Senator's assent or dissent to the question, unless the Senator declares a personal financial interest in the question or is excused by the Senate, and no Senator shall be permitted to vote after the decision shall have been announced by the Presiding Officer, but may for sufficient reason change the Senator's vote prior to such announcement. No motion to suspend this rule shall be in order, nor shall the Presiding Officer entertain any request to suspend by unanimous consent.

B. When a Senator declines to vote on the second call of the Senator's name, the Senator shall be required to assign the Senator's reasons therefor. If the reason assigned is other than a personal financial interest in the question or a substantial interest as defined in the statutory code which is not a personal financial interest in the question, the Presiding Officer shall submit the question to the Senate: "Shall the Senator for the reasons assigned by the Senator, be excused from voting?" which shall be decided without debate; and these proceedings shall be had after the roll call and before the result is announced and any further proceedings in reference thereto shall be after such announcement.

C. When a vote is being taken using the electronic roll call system, the provisions of Rule 15.1 shall supersede any provision of this rule which is inconsistent therewith.

RULE 29

Code of Ethics

A. No member shall:

1. Intentionally solicit, accept or agree to accept from any source whether directly or indirectly and whether by himself or through any other person any personal financial benefit, including any gift, for himself or another upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public official will thereby be influenced.

2. Disclose or use information designated by law as confidential in any manner prohibited by law.

3. Knowingly disclose or use, other than in the performance of his official duties, information gained as a result of his official position and which is not available to the general public, for his personal financial benefit or the financial benefit of any other

person, including compensation from any employment, transaction or investment entered into that utilizes or is based upon such information.

4. Enter into any contract with a public agency for the sale of goods or services or have an interest in the profits or benefits of a contract entered into with a public agency by any other person or entity for the sale of goods or services, unless:

(a) The total gross annual income value of the contract is less than one thousand dollars, or

(b) The contract is entered into by a business of which the member, his spouse or any minor child of whom the member has custody, owns or controls, individually or combined, less than ten percent thereof, or

(c) The contract has been awarded through public and competitive bidding pursuant to law, or

(d) The subject of the contract between a member and a public agency is an appointment or employment for which an exception exists pursuant to article IV, part 2, section 4 or 5 of the Constitution of Arizona.

5. Appear for a fee on behalf of another person or entity before any public agency for the purpose of influencing such agency by use of threat to initiate or take an action in the discharge of his official duties that would be adverse to such agency.

6. Participate in any action of the Senate if the member has a substantial interest as defined in section 38-502, Arizona Revised Statutes.

B. For the purposes of this rule:

1. A member shall be deemed to "have an interest in the profits of a contract" if the contract is entered into by the member or his spouse or any minor child of whom the member has legal custody.

2. "Public agency" means all courts and any department, agency, board, commission, institution or instrumentality of this state but does not include counties, cities and towns or any other political subdivision.

3. "Business" includes any corporation, partnership, joint venture, sole proprietorship, business trust, enterprise, organization, trade, occupation or profession.

4. "Gift" includes any gratuity, special discount, favor, service, economic opportunity, loan or other benefit received without lawful consideration and not provided to members of the public at large but does not include political campaign contributions if such contributions are publicly reported as required by law.

5. "Fee" includes any compensation but does not include benefits received pursuant to law as a result of being a legislator.

RULE 30

Personal Financial Interest

A. A member who anticipates taking an action in the discharge of his official duties in which he may have a personal financial interest shall:

1. Prepare a written statement describing the matter to be acted upon and the nature of the potential interest; and

2. Deliver a copy of the statement to the President, the Chairman of the Ethics Committee and the Secretary of the Senate. Such statement shall be retained by the Secretary of the Senate as a public record.

B. A member shall report a potential personal financial interest pursuant to subsection A as soon as the member is aware of such potential interest. If, however, such awareness occurs when the Senate is convened on the floor or during a meeting of a committee, subcommittee or caucus, a member shall report a potential personal financial interest as soon after the adjournment of that body as is practicable.

C. A member may abstain from taking any action in which he has a personal financial interest. Upon declining to participate in any legislative action on the floor, in committee or in subcommittee, the member shall, in addition to the requirements of subsection A, state his decision and the underlying reasons therefor and such decision shall be recorded in the Journal or minutes of that body.

D. A member in doubt as to the propriety of any action proposed to be taken by him and involving a potential personal financial interest under this rule may request the Ethics Committee to render an advisory opinion on the facts. The advisory opinion shall be issued not later than five days from the date of the receipt of that request and be filed with the President, the Chairman of the Ethics Committee and the Secretary of the Senate. Such opinion shall be retained by the Secretary of the Senate as a public record.

E. For the purposes of this rule:

1. "An action in the discharge of his official duties" means introduction, sponsorship, debate, amendment, passage, defeat, approval, consideration or any other official action on any bill, resolution, memorial, amendment, confirmation, nomination, appointment, report or any other matter pending or proposed in a committee, subcommittee, caucus or on the floor of the Senate.

2. A personal financial interest exists if it is reasonably foreseeable that an action in the discharge of his official duties will have a material financial benefit or detriment either directly or indirectly on the member, his spouse or any minor child of whom he has legal custody, except that no personal financial interest exists if the legislator or such member of his household is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is to be affected by such action.

F. A member who has a substantial interest as defined by section 38-502, Arizona Revised Statutes, shall comply with title 38, chapter 3, article 8, Arizona Revised Statutes.

LEGISLATIVE ETHICS COMMITTEES

38-519. Legislative ethics committees; membership; powers and duties; code of ethics

A. An ethics committee is established in the senate and an ethics committee is established in the house of representatives, each consisting of five members. The president of the senate and the speaker of the house of representatives shall appoint to the ethics committee of their respective house five members, not more than three of whom may be from the same political party.

B. Each ethics committee shall propose, and each house of the legislature shall adopt, not later than thirty days after the beginning of the first regular legislative session, a code of ethics and conflict of interest requirements as part of the rules of the respective house in the same manner as other rules are adopted.

C. On the request of a member of the legislature or on its own initiative, each ethics committee may issue advisory opinions interpreting the code of ethics, conflict of interest and financial disclosure requirements.

D. Each ethics committee shall investigate complaints and charges against members of its house and, if necessary, report the results of the investigation to its house with recommendations for further action.

E. A member is subject to punishment or expulsion as provided by article IV, part 2, section 11, Constitution of Arizona, for any violation of the code of ethics, conflict of interest or financial disclosure requirements.

SENATE ETHICS COMMITTEE RULES OF PROCEDURE

RULE 1 Definitions

For the purposes of these rules:

1. “Chairman” means the chairman of the Senate Ethics Committee.
2. “Committee” means the Senate Ethics Committee.
3. “Complainant” means the person making the complaint.
4. “Conduct alleged to be unethical” includes a violation of federal or state law or a Senate Ethics rule involving the conduct of a public office or a violation of the public trust, or any improper conduct that adversely reflects upon the Senate.
5. “Days” means calendar days, unless otherwise specifically stated.
6. “Majority of the Committee” means a majority of the members of the Committee.
7. “Respondent” means the Senator against whom a complaint has been filed.

RULE 2 Powers and Duties of the Committee

The Committee has the following powers and duties:

1. To receive complaints against any Senator concerning conduct alleged to be unethical.
2. To conduct an investigation and initiate, by a majority vote of the Committee, a complaint against any Senator concerning conduct alleged to be unethical.
3. To investigate complaints.
4. To file in the offices of the President and of the Secretary of the Senate and report to the Senate either:
 - a. The results of an investigation or hearing with recommendations for further appropriate action, if necessary.
 - b. A dismissal notice.
5. To render advisory opinions regarding legislative ethics upon the written request of any Senator.

6. To recommend legislation and rules concerning legislative ethics.
7. To make available to the Senate a compilation of the advisory opinions rendered.

RULE 3
Hearing Notice

The Chairman shall notify all members of the Committee at least twenty-four (24) hours in advance of the date, time and place of a hearing. If the Chairman refuses to call a hearing, a majority of the Committee may call a hearing by giving two (2) days' written notice to the President setting forth the time and place for the hearing. The notice shall be posted in the Office of the Secretary of the Senate, and if the hearing is called while the Legislature is in session the hearing shall be announced on the floor of the Senate.

RULE 4
Committee Hearings

- A. Committee hearings shall be open to the public. All legal action taken by the Committee shall occur only in open hearings. The Committee may hold closed sessions upon a majority vote to hear testimony or receive evidence that the Committee determines to be confidential in order to:
 1. Protect the integrity of an on-going investigation.
 2. Preserve the privacy of third parties.
 3. Receive advice of legal counsel.
 4. Effectuate any other lawful purpose.
- B. A verbatim record of each hearing of the Committee, either written or taped, shall be kept in the Office of the Senate Secretary.

RULE 5
Complaints

- A. The Chairman shall receive any sworn complaint alleging unethical conduct.
 1. Complaints shall be in writing, signed by the person or persons filing the complaint, and notarized. The sworn complaint shall contain either:
 - a) A statement of fact within the personal knowledge of the Complainant describing the alleged unethical conduct.
 - b) The law or Senate Ethics rule that is alleged to have been violated.

2. All documents alleged to support the complaint shall be included with the complaint.
- B. The Chairman shall review and distribute by mail or electronic mail a copy of each complaint and supporting documentation to all members of the Committee, with the Chairman's recommendation for action or notice of dismissal pursuant to Rule 9.

RULE 6
Notice to Respondent

The Respondent shall be verbally notified immediately of any complaint filed against the Respondent. Not later than two (2) business days after receipt of a complaint, the Chairman shall notify the Respondent by mail or electronic mail. The notice shall be accompanied by a copy of the complaint, its supporting documentation, if any, and these rules.

RULE 7
Answer

Within seven (7) days after the notice is mailed or emailed, the Respondent may file a written answer with the Chairman. Failure to file an answer shall not be deemed to be an admission, to create an inference or presumption that the complaint is true or to prohibit a majority of the Committee from either proceeding with an investigation or dismissing the complaint.

RULE 8
Initial Proceedings

Upon receipt of the answer or the expiration of the seven-day period, whichever is sooner, the majority of the Committee shall decide to either dismiss the complaint within five (5) days or proceed with an investigation. If the majority of the Committee decides to proceed with an investigation, the Respondent shall be notified in writing and a hearing date shall be set. A hearing shall commence not less than five (5) days or more than twenty (20) days after notice to the Respondent that the Committee is proceeding with an investigation. Personal service of this notice shall be made by mail or electronic mail. A majority of the Committee may for good cause shown modify the time periods in this rule.

RULE 9
Dismissal

- A. Notwithstanding any other provision of these rules, the Chairman shall evaluate the complaint. If the allegations do not constitute conduct alleged to be unethical under these rules, the Chairman shall dismiss the complaint and notify the other Committee members and the Complainant of this action by mail or electronic mail.

- B. If a member of the Committee objects to dismissal of the complaint pursuant to subsection A, the member shall notify the Chairman of the objection within ten (10) days from the date of the dismissal. If at least two (2) of the members object to dismissal, the Chairman shall withdraw the dismissal and notify the Committee members, Respondent and Complainant by mail or electronic mail.

RULE 10
Investigations

- A. The Chairman shall direct an investigation if the complaint is not dismissed. As part of its investigation of conduct alleged to be unethical, the Committee shall have the power to issue subpoenas for the taking of testimony under oath or the production of documents and things, or both. The Committee may act through Senate counsel or through independent counsel retained by the Senate in exercising these powers.
- B. The Committee or the Committee's counsel shall have the burden of proving by clear and convincing evidence that the respondent engaged in the unethical conduct alleged in the complaint.

RULE 11
Hearings

- A. At the time a hearing is scheduled, the Committee shall establish and notify the Respondent of the preliminary schedule and procedures for making opening and closing statements and for the presentation of evidence. The procedures shall include notice that all testimony will be taken under oath.
- B. In addition to the rights enumerated elsewhere in these rules, in a hearing, the Respondent shall have the right to:
 - 1. Notice of the complaint.
 - 2. Present evidence and to examine the evidence against the respondent.
 - 3. Cross-examine witnesses.
 - 4. Be represented by counsel of the Respondent's choice and at the Respondent's expense.
- C. The Committee shall have the power to issue subpoenas for the taking of testimony under oath or the production of documents and things, or both. The Committee may act through Senate counsel or through independent counsel retained by the Senate in exercising these powers.
- D. When the Committee has concluded its inquiries into alleged unethical conduct, the Committee, by majority vote, may either:

1. Dismiss the complaint and take no further action, in which case the Committee shall make a report of the dismissal to the full Senate and notify the Complainant of this action by certified mail.
2. Recommend disciplinary action in its report to the full Senate, including:
 - a) A letter of reprimand that then requires the affirmative vote of a majority of the members of the Senate.
 - b) The adoption of a resolution of censure that then requires the affirmative vote of a majority of the members of the Senate.
 - c) Expulsion if the Committee finds substantial evidence that an ethical violation occurred that then requires the affirmative vote of two-thirds (20) of the members of the Senate as required by the Constitution of Arizona, Article IV, part 2, section 11.

E. Any report to the full Senate may include a minority report.

RULE 12
Referral of Possible Criminal Violation

If at any stage of its proceedings the Committee finds evidence of a possible criminal violation, it shall refer the evidence to the appropriate law enforcement agency.

RULE 13
Committee Reports, Dismissals and Advisory Opinions

- A. No action shall be taken on any report regarding conduct alleged to be unethical nor shall a report containing a finding of unethical conduct be presented to the Senate sooner than twenty-four (24) hours after a copy of the report is sent by mail or electronic mail to the Respondent.
- B. A copy of any report, dismissal or advisory opinion prepared by the Committee shall be kept on file in the office of the Secretary of the Senate.

RULE 14
Confidentiality

- A. The Committee may designate testimony, documents, records, data, statements or other information received by the Committee in the course of any investigation to be confidential in order to protect the integrity of an on-going investigation, preserve the privacy of third parties or for any other lawful purpose.

- B. The Committee may make public any confidential information regarding any person with that person's permission.
- C. Prior to Senate action on any report issued by the Committee, the members of the Senate shall be entitled to review in confidence the records of any closed session, and any materials designated confidential by the Committee.

RULE 15
Breach of Confidentiality

- A. Any breach of the confidentiality of materials and events as set forth in these rules by a member of the Committee shall be reported to the President of the Senate, who may appoint a replacement.
- B. Any breach of confidentiality of materials and events as set forth in these rules by any other member of the Senate shall be reported to the President of the Senate.
- C. Any employee of the Senate shall be subject to the same restriction of confidentiality as members of the Committee and of the Senate, and a breach of this restriction shall be grounds for dismissal of any employee.

RULE 16
Coordination with the House of Representatives

The Committee may meet with a Committee of the House of Representatives to conduct investigations or hearings.

RULE 17
Committee Member Under Investigation

If a member of the Committee is under investigation or the subject of a complaint, the member shall be temporarily replaced on the Committee by the appointment of another member made by the President of the Senate.

RULE 18
Duration of Committee's Authority and Power

The Committee shall continue to exist and have authority and power to function after the adjournment sine die of the Legislature, and shall continue until the expiration of the current term of office of the members of the Committee.

BRIBERY

13-2602. Bribery of a public servant or party officer; classification

A. A person commits bribery of a public servant or party officer if with corrupt intent:

1. Such person offers, confers or agrees to confer any benefit upon a public servant or party officer with the intent to influence the public servant's or party officer's vote, opinion, judgment, exercise of discretion or other action in his official capacity as a public servant or party officer; or

2. While a public servant or party officer, such person solicits, accepts or agrees to accept any benefit upon an agreement or understanding that his vote, opinion, judgment, exercise of discretion or other action as a public servant or party officer may thereby be influenced.

B. It is no defense to a prosecution under this section that a person sought to be influenced was not qualified to act in the desired way because such person had not yet assumed office, lacked jurisdiction or for any other reason.

C. Bribery of a public servant or party officer is a class 4 felony.

13-2603. Trading in public office; classification

A. A person commits trading in public office if with corrupt intent:

1. Such person offers, confers or agrees to confer any benefit upon a public servant or party officer upon an agreement or understanding that he will or may be appointed to a public office or designated or nominated as a candidate for public office; or

2. While a public servant or party officer, such person solicits, accepts or agrees to accept any benefit from another upon an agreement or understanding that that person will or may be appointed to a public office or designated or nominated as a candidate for public office.

B. This section does not apply to contributions to political campaign funds or other similar political contributions made without corrupt intent.

C. Trading in public office is a class 6 felony.

CONFLICTS OF INTEREST

38-501. Application of article

A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.

B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.

C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

38-502. Definitions

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.
2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.
4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.
6. "Public agency" means:
 - (a) All courts.
 - (b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.
 - (c) The state, county and incorporated cities or towns and any other political subdivisions.
7. "Public competitive bidding" means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.
8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.

9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

10. "Remote interest" means:

(a) That of a nonsalaried officer of a nonprofit corporation.
(b) That of a landlord or tenant of the contracting party.
(c) That of an attorney of a contracting party.
(d) That of a member of a nonprofit cooperative marketing association.
(e) The ownership of less than three per cent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five per cent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five per cent of his total annual income.

(f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.

(g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.

(h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.

(i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, of any of the following:

(i) Another political subdivision.

(ii) A public agency of another political subdivision.

(iii) A public agency except if it is the same governmental entity.

(j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.

11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

38-503. Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any

equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

...

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

38-506. Remedies

A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.

B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of section 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

38-509. Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

38-510. Penalties

A. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.
2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

38-511. Cancellation of political subdivision and state contracts; definition

A. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

B. Leases of state trust land for terms longer than ten years cancelled under this section shall respect those rights given to mortgagees of the lessee by section 37-289 and other lawful provisions of the lease.

C. The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.

D. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

E. In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.

F. Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.

G. For purposes of this section, "political subdivisions" do not include entities formed or operating under title 48, chapter 11, 12, 13, 17, 18, 19 or 22.

CONTRACTING WITH THE GOVERNMENT

38-503. Conflict of interest; exemptions; employment prohibition

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

...

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

...

DISCLOSURE OF CONFIDENTIAL INFORMATION

38-504. Prohibited acts

...

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

...

DISCRIMINATION

41-1463. Discrimination; unlawful practices; definition

A. Nothing contained in this article shall be interpreted to require that the less qualified be preferred over the better qualified simply because of race, color, religion, sex, age or national origin or on the basis of disability.

B. It is an unlawful employment practice for an employer:

1. To fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions or privileges of employment because of the individual's race, color, religion, sex, age or national origin or on the basis of disability.

2. To limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age or national origin or on the basis of disability.

3. To fail or refuse to hire, to discharge, or to otherwise discriminate against any individual based on the results of a genetic test received by the employer, notwithstanding subsection I, paragraph 2 of this section.

C. It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of the individual's race, color, religion, sex, age or national origin or on the basis of disability or to classify or refer for employment any individual on the basis of the individual's race, color, religion, sex, age or national origin or on the basis of disability.

D. It is an unlawful employment practice for a labor organization:

1. To exclude or to expel from its membership or otherwise to discriminate against any individual because of the individual's race, color, religion, sex, age or national origin or on the basis of disability.

2. To limit, segregate or classify its membership or applicants for membership or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive the individual of employment opportunities or would limit those employment opportunities or otherwise adversely affect the individual's status as an employee or as an applicant for employment because of the individual's race, color, religion, sex, age or national origin or on the basis of disability.

3. To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

E. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, to discriminate against any individual because of the individual's race, color, religion, sex, age or national origin or on the basis of disability in admission to or employment in any program established to provide apprenticeship or other training and, if the individual is an otherwise qualified individual, to fail or refuse to reasonably accommodate the individual's disability.

F. With respect to a qualified individual, it is an unlawful employment practice for a covered entity to:

1. Participate in any contractual or other arrangement or relationship that has the effect of subjecting a qualified individual who applies with or who is employed by the covered entity to unlawful employment discrimination on the basis of disability.

2. Use standards, criteria or methods of administration that have the effect of discriminating on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control.

3. Exclude or otherwise deny equal jobs or benefits to an individual qualified for the job or benefits because of the known disability of an individual with whom the individual qualified for the job or benefits is known to have a relationship or association.

4. Not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual who is an applicant or employee unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity or the individual only meets the definition of disability as prescribed in section 41-1461, paragraph 4, subdivision (c).

5. Deny employment opportunities to a job applicant or employee who is an otherwise qualified individual if the denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairment of the applicant or employee.

6. Use qualification standards, employment tests or other selection criteria, including those based on an individual's uncorrected vision, that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.

7. Fail to select and administer tests relating to employment in the most effective manner to ensure that, when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills or aptitude or whatever other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the applicant or employee, except if the skills are the factors that the test purports to measure.

G. Notwithstanding any other provision of this article, it is not an unlawful employment practice:

1. For an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or classify or refer for employment any individual, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of the individual's religion, sex or national origin in those certain instances when religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. For any school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school, college, university or other educational institution or institution of learning is in whole or in substantial part owned, supported, controlled or managed by a particular religion or religious corporation, association or society, or if the curriculum of the school, college,

university or other educational institution or institution of learning is directed toward the propagation of a particular religion.

3. For an employer to fail or refuse to hire or employ any individual for any position, for an employment agency to fail or refuse to refer any individual for employment in any position or for a labor organization to fail or refuse to refer any individual for employment in any position, if both of the following apply:

(a) The occupancy of the position or access to the premises in or upon which any part of the duties of the position are performed or are to be performed is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any statute of the United States or any executive order of the president of the United States.

(b) The individual has not fulfilled or has ceased to fulfill that requirement.

4. With respect to age, for an employer, employment agency or labor organization:

(a) To take any action otherwise prohibited under subsection B, C or D of this section if age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or if the differentiation is based on reasonable factors other than age.

(b) To observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, deferred compensation or insurance plan, which is not a subterfuge to evade the purposes of the age discrimination provisions of this article, except that no employee benefit plan may excuse the failure to hire any individual and no seniority system or employee benefit plan may require or permit the involuntary retirement of any individual specified by section 41-1465 because of the individual's age.

(c) To discharge or otherwise discipline an individual for good cause.

H. As used in this article, unlawful employment practice does not include any action or measure taken by an employer, labor organization, joint labor-management committee or employment agency with respect to an individual who is a member of the communist party of the United States or of any other organization required to register as a communist-action or communist-front organization by final order of the subversive activities control board pursuant to the subversive activities control act of 1950.

I. Notwithstanding any other provision of this article, it is not an unlawful employment practice:

1. For an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that these differences are not the result of an intention to discriminate because of race, color, religion, sex or national origin.

2. For an employer to give and act upon the results of any professionally developed ability test provided that the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin.

3. For any employer to differentiate upon the basis of sex or disability in determining the amount of the wages or compensation paid or to be paid to employees of

the employer if the differentiation is authorized by the provisions of section 6(d) or section 14 of the fair labor standards act of 1938, as amended (29 United States Code section 206(d)).

J. Nothing contained in this chapter applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of the business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

K. Nothing contained in this article or article 6 of this chapter requires any employer, employment agency, labor organization or joint labor-management committee subject to this article to grant preferential treatment to any individual or group because of the race, color, religion, sex or national origin of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex or national origin in any community, state, section or other area, or in the available work force in any community, state, section or other area.

L. Nothing in the age discrimination prohibitions of this article may be construed to prohibit compulsory retirement of any employee who has attained sixty-five years of age and who, for the two year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan or any combination of plans of the employer for the employee, which equals, in the aggregate, at least forty-four thousand dollars. In applying the retirement benefit test of this subsection, if any retirement benefit is in a form other than a straight life annuity, with no ancillary benefits, or if employees contribute to the plan or make rollover contributions, the benefit shall be adjusted in accordance with rules adopted by the division so the benefit is the equivalent of a straight life annuity, with no ancillary benefits, under a plan to which employees do not contribute and under which no rollover contributions are made.

M. A covered entity may require that an individual with a disability shall not pose a direct threat to the health or safety of other individuals in the workplace. For the purposes of this subsection, "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

N. This article does not alter the standards for determining eligibility for benefits under this state's workers' compensation laws or under state and federal disability benefit programs.

O. For the purposes of this section and section 41-1481, with respect to employers or employment practices involving a disability, "individual" means a qualified individual.

41-1466. Medical examinations and inquiries; exception

A. The prohibition against discrimination based on a disability includes medical examinations and inquiries. Except as provided in subsection B, paragraph 2, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether the applicant is an individual with a disability or as to the nature or severity of the disability.

B. A covered entity may:

1. Make preemployment inquiries into the ability of an applicant to perform job related functions.

2. Require a medical examination after an offer of employment has been made to a job applicant and before commencement of employment duties of the applicant and may condition an offer of employment on the results of such examination if all of the following apply:

(a) All entering employees are subjected to the examination regardless of disability.

(b) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that the covered entity:

(i) May inform supervisors and managers of necessary restrictions on the work or duties of the employee and necessary accommodations.

(ii) When appropriate, may inform first aid and safety personnel if the disability might require emergency treatment.

(iii) On request, shall provide relevant information to government officials investigating compliance with this article.

(c) The results of the examination are used only in accordance with this section.

C. A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether the employee is an individual with a disability or as to the nature or severity of the disability, unless the examination or inquiry is shown to be job related and consistent with business necessity.

D. A covered entity may:

1. Conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site.

2. Make inquiries into the ability of an employee to perform job related functions.

E. Information obtained pursuant to subsections C and D regarding the medical condition or history of any employee are subject to the requirements prescribed in subsection B, paragraph 2, subdivisions (b) and (c).

F. For the purposes of this section, a test to determine the illegal use of drugs is not a medical examination.

41-1467. Essential job functions

Under this article and article 6 of this chapter, in determining what functions of a job are essential, consideration shall be given to the employer's judgment as to what functions of the job are essential, and if the employer has prepared a written description

of the job before advertising or interviewing applicants for the job, this written description is evidence of the essential functions of the job.

41-1472. Damages; preventive relief; civil penalties; attorney fees

A. In an action under section 41-1471, if the superior court finds that discrimination in violation of section 41-1421 or 41-1442 has occurred, the court may award:

1. Actual and compensatory damages, including damages for emotional distress.
2. Court costs.
3. Preventive relief, including a permanent or temporary injunction, a restraining order or any other order against the person responsible for a violation of section 41-1421 or 41-1442.

B. In an action brought by the attorney general, if the superior court finds that discrimination in violation of section 41-1421 or 41-1442 has occurred, the court may award:

1. Actual and compensatory damages, including damages for emotional distress.
2. Court costs.
3. Preventive relief, including a permanent or temporary injunction, a restraining order or any other order against the person responsible for a violation of section 41-1421 or 41-1442.

4. If appropriate to vindicate the public interest, a civil penalty against the person responsible for the violation of not more than:

- (a) Five thousand dollars for a first violation.
- (b) Ten thousand dollars for any subsequent violation.

C. In an action under section 41-1471, the court shall award reasonable attorney fees to a prevailing plaintiff, other than the attorney general. The court shall not award attorney fees to a prevailing defendant unless the plaintiff's complaint was frivolous, unreasonable or without foundation.

41-1492. Definitions

In this article, unless the context otherwise requires:

1. "Americans with disabilities act" means 42 United States Code sections 12101 through 12213 and 47 United States Code sections 225 and 611 and the ADA amendments act of 2008 (P.L. 110-325; 122 Stat. 3553).

2. "Auxiliary aids and services" includes:

(a) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

(b) Qualified readers, taped text or other effective methods of making visually delivered materials available to individuals with visual impairments.

(c) Acquisition or modification of equipment or devices.

(d) Other similar services and actions.

3. "Being regarded as having such a physical or mental impairment":

(a) Means an individual who establishes that the individual has been subjected to an action prohibited under this article because of an actual or perceived physical or

mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(b) Does not mean an impairment that is transitory and minor. For the purposes of this subdivision, "transitory impairment" means an impairment with an actual or expected duration of six months or less.

4. "Commercial facilities" means facilities that are intended for nonresidential use and that do not meet the definition of either a public accommodation or a public entity. Commercial facilities do not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars, railroad rights-of-way or facilities that are covered or expressly exempted from coverage under this article.

5. "Demand responsive system" means any system of providing the transportation of individuals by a vehicle, other than a system that is a fixed route system.

6. "Disability" means, with respect to an individual, any of the following:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(b) A record of such an impairment.

(c) Being regarded as having such an impairment.

7. "Fixed route system" means a system of providing the transportation of individuals by, other than by aircraft, a vehicle that is operated along a prescribed route according to a fixed schedule.

8. "Major life activities" includes:

(a) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.

(b) The operation of a major bodily function, including functions of the immune system, normal cell growth and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

9. "Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

10. "Private entity" means any entity other than a public entity.

11. "Public accommodation" includes any:

(a) Inn, hotel, motel or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor.

(b) Restaurant, bar or other establishment serving food or drink.

(c) Motion picture house, theater, concert hall, stadium or other place of exhibition or entertainment.

(d) Auditorium, convention center, lecture hall or other place of public gathering.

(e) Bakery, grocery store, clothing store, hardware store, shopping center or other sales or retail establishment.

(f) Laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment.

(g) Terminal, depot or other station used for specified public transportation.

(h) Museum, library, gallery or other place of public display or collection.

- (i) Park, zoo, amusement park or other place of recreation.
 - (j) Nursery, elementary, secondary, undergraduate or postgraduate private school or other place of education.
 - (k) Day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment.
 - (l) Gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.
12. "Public entity" means any:
- (a) State or local government.
 - (b) Department, agency, special purpose district or other instrumentality of a state or local government, including the legislature.
13. "Rail" or "railroad" has the meaning given the term "railroad" in section 202(e) of the federal railroad safety act of 1970 (45 United States Code section 431(e)).
14. "Readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:
- (a) The nature and cost of the action needed under this article.
 - (b) The overall financial resources of the facility or facilities involved in the action, the number of persons employed at the facility, the effect on expenses and resources or the impact otherwise of such action on the operation of the facility.
 - (c) The overall financial resources of the covered entity.
 - (d) The overall size of the business of a covered entity with respect to the number of its employees.
 - (e) The number, type and location of the covered entity's facilities.
 - (f) The type of operation or operations of the covered entity, including the composition, structure and functions of the facilities in question to the covered entity.
15. "Specified public transportation" means transportation by bus, rail or any other conveyance, other than aircraft, that provides the general public with general or special service, including charter service, on a regular and continuing basis.
16. "State" means the state of Arizona.
17. "Vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboos or railroad car covered under this article.

41-1492.01. Prohibition of discrimination by public entities

A. All buildings and facilities that are used by public entities and that are leased or constructed in whole or in part with the use of state or local monies, the monies of any political subdivision of this state or any combination of these monies shall conform to title II of the Americans with disabilities act.

B. This article applies to permanent buildings, additions to buildings, temporary buildings and emergency construction.

41-1492.02. Prohibition of discrimination by public accommodations and commercial facilities

A. No individual may be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation by any person who owns, leases, leases to others or operates a place of public accommodation.

B. It is discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of that individual or class, directly or through contractual, licensing or other arrangements:

1. To a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, advantages, privileges or accommodations of an entity.

2. To the loss of an opportunity to participate in or benefit from goods, services, facilities, privileges, advantages or accommodations that are not equal to those afforded to other individuals.

3. To a good, service, facility, privilege, advantage or accommodation that is different or separate from that provided to other individuals, unless the action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, accommodation or other opportunity that is as effective as that provided to others. For the purposes of this subsection, "individual" or "individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

C. Goods, services, facilities, privileges, advantages and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

D. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in programs or activities that are not separate or different. Nothing in this article shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit that the individual chooses not to accept.

E. An individual or entity, directly or through contractual or other arrangements, shall not utilize standards or criteria or methods of administration that:

1. Have the effect of discriminating on the basis of disability.

2. Perpetuate the discrimination of others who are subject to common administrative control.

F. It is discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

G. For the purposes of subsection A of this section, "discriminated against" includes:

1. The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or

accommodations, unless these criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages or accommodations being offered.

2. A failure to make reasonable modifications in policies, practices or procedures, if these modifications are necessary to afford these goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless the entity can demonstrate that making these modifications would fundamentally alter the nature of these goods, services, facilities, privileges, advantages or accommodations.

3. A failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of reasonable modifications in policies, practices or procedures or auxiliary aids and services, unless the entity can demonstrate that taking these steps would fundamentally alter the nature of the goods, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden.

4. A failure to remove architectural barriers and communication barriers that are structural in nature in existing facilities and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift if the removal is readily achievable.

5. If an entity can demonstrate that the removal of a barrier under paragraph 4 of this subsection is not readily achievable, a failure to make these goods, services, facilities, privileges, advantages or accommodations available through alternative methods if these methods are readily achievable.

H. It is discriminatory for a private entity that operates a fixed route system and that is not subject to section 304 of the Americans with disabilities act to purchase or lease a vehicle with a seating capacity in excess of sixteen passengers, including the driver, for use on this system, for which a solicitation is made after September 30, 1992, that is not readily accessible to and usable by individuals with disabilities including individuals who use wheelchairs. If a private entity that operates a fixed route system and that is not subject to section 41-1492.04 purchases or leases a vehicle with a seating capacity of sixteen passengers or less, including the driver, for use on such system after September 30, 1992 that is not readily accessible to or usable by individuals with disabilities, it is discriminatory for this entity to fail to operate this system so that, if viewed in its entirety, this system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities. Fixed route and demand response systems do not apply to over-the-road buses. For the purposes of this subsection, "discriminatory" includes:

1. A failure of a private entity that operates a demand responsive system and that is not subject to section 41-1492.04 to operate the system so that, if viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

2. The purchase or lease by the entity for use on the system of a vehicle with a seating capacity in excess of sixteen passengers, including the driver, for which solicitations are made after September 30, 1992, that is not readily accessible to and

usable by individuals with disabilities, including individuals who use wheelchairs, unless the entity can demonstrate that the system, if viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

3. The purchase or lease of an over-the-road bus that does not comply with section 306(a)(2) of the Americans with disabilities act by a private entity that provides transportation of individuals and that is not primarily engaged in the business of transporting people and any other failure of the entity to comply with section 306(a)(2) of the Americans with disabilities act.

I. Nothing in this article requires an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of the entity if the individual poses a direct threat to the health or safety of others. For the purposes of this subsection, "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by modification of policies, practices or procedures or by the provision of auxiliary aids or services.

41-1492.03. Incorporation of standards in building codes

A. The standards and specifications referred to in this article and its implementing rules as applying to public entities shall be incorporated in any building code in existence on or adopted after the effective date of this article by this state or any agency, department or political subdivision of this state. These standards and specifications apply to new construction and alterations and are not required in buildings or portions of existing buildings that do not meet the standards and specifications.

B. The standards and specifications referred to in this article and its implementing rules as applying to public accommodations and commercial facilities shall be incorporated in any building code in existence on or adopted subsequent to the effective date of this article by this state or any agency, department, or political subdivision of this state. These standards and specifications shall apply to new construction and alterations commenced after the effective date of such standards and specifications.

41-1492.10. Prohibition against retaliation and coercion

A. No person may discriminate against any individual because the individual has opposed any act or practice made unlawful by this article or because the individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this article.

B. It is unlawful to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, for having exercised or enjoyed or on account of his having aided or encouraged any other individual in the exercise or enjoyment of any right granted or protected by this article.

NEPOTISM

38-481. Employment of relatives; violation; classification; definition

A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.

B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.

C. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

FINANCIAL DISCLOSURE

38-541. Definitions

In this chapter, unless the context otherwise requires:

1. "Business" includes any enterprise, organization, trade, occupation or profession, whether or not operated as a legal entity or for profit, including any business trust, corporation, partnership, joint venture or sole proprietorship.

2. "Compensation" means anything of value or advantage, present or prospective, including the forgiveness of debt.

3. "Controlled business" means any business in which the public officer or any member of his household has an ownership or beneficial interest, individually or combined, amounting to more than a fifty per cent interest.

4. "Dependent business" means any business in which the public officer or any member of his household has an ownership or beneficial interest, individually or combined, amounting to more than a ten per cent interest, and during the preceding calendar year the business received from a single source more than ten thousand dollars and more than fifty per cent of its gross income.

5. "Gift" includes any gratuity, special discount, favor, hospitality, service, economic opportunity, loan or other benefit received without equivalent consideration and not provided to members of the public at large.

6. "Local public officer" means a person holding an elective office of an incorporated city or town, a county or a groundwater replenishment district established under title 48, chapter 27.

7. "Member of household" means a public officer's spouse and any minor child of whom the public officer has legal custody.

8. "Public officer" means a member of the legislature and any judge of the court of appeals or the superior court, or a person holding an elective office the constituency of which embraces the entire geographical limits of this state. Members of Congress are not public officers as defined in this paragraph.

38-542. Duty to file financial disclosure statement; contents; exceptions

A. In addition to other statements and reports required by law, every public officer, as a matter of public record, shall file with the secretary of state on a form prescribed by the secretary of state a verified financial disclosure statement covering the preceding calendar year. The statement shall disclose:

1. The name and address of the public officer and each member of his household and all names and addresses under which each does business.

2. The name and address of each employer and of each other source of compensation other than gifts amounting to more than one thousand dollars received during the preceding calendar year by the public officer and members of his household in their own names, or by any other person for the use or benefit of the public officer or members of his household, a description of the services for which the compensation was received and the nature of the employer's business. This paragraph shall not be construed

to require the disclosure of individual items of compensation that constituted a portion of the gross income of the business from which the public officer or members of his household derived compensation.

3. For a controlled business, a description of the goods or services provided by the business, and if any single source of compensation to the business during the preceding calendar year amounts to more than ten thousand dollars and is more than twenty-five per cent of the gross income of the business, the disclosure shall also include a description of the goods or services provided to the source of compensation. For a dependent business the statement shall disclose a description of the goods or services provided by the business and a description of the goods or services provided to the source of compensation from which the dependent business derived the amount of gross income described in section 38-541, paragraph 4. If the source of compensation for a controlled or dependent business is a business, the statement shall disclose a description of the business activities engaged in by the source of compensation.

4. The names and addresses of all businesses and trusts in which the public officer or members of his household, or any other person for the use or benefit of the public officer or members of his household, had an ownership or beneficial interest of over one thousand dollars at any time during the preceding calendar year, and the names and addresses of all businesses and trusts in which the public officer or any member of his household held any office or had a fiduciary relationship at any time during the preceding calendar year, together with the amount or value of the interest and a description of the interest, office or relationship.

5. All Arizona real property interests and real property improvements, including specific location and approximate size, in which the public officer, any member of his household or a controlled or dependent business held legal title or a beneficial interest at any time during the preceding calendar year, and the value of any such interest, except that this paragraph does not apply to a real property interest and improvements thereon used as the primary personal residence or for the personal recreational use of the public officer. If a public officer, any member of his household or a controlled or dependent business acquired or divested any such interest during the preceding calendar year, he shall also disclose that the transaction was made and the date it occurred. If the controlled or dependent business is in the business of dealing in real property interests or improvements, disclosure need not include individual parcels or transactions as long as the aggregate value of all parcels of such property is reported.

6. The names and addresses of all creditors to whom the public officer or members of his household, in their own names or in the name of any other person, owed a debt of more than one thousand dollars or to whom a controlled business or a dependent business owed a debt of more than ten thousand dollars which was also more than thirty per cent of the total business indebtedness at any time during the preceding calendar year, listing each such creditor. This paragraph shall not be construed to require the disclosure of debts owed by the public officer or any member of his household resulting from the ordinary conduct of a business other than a controlled or dependent business nor shall disclosure be required of credit card transactions, retail installment contracts, debts on residences or recreational property exempt from disclosure under paragraph 5 of this subsection, debts on motor vehicles not used for commercial purposes, debts secured by cash values on life insurance or debts owed to relatives. It is sufficient disclosure of a

creditor if the name and address of a person to whom payments are made is disclosed. If the public officer, any member of his household or a controlled or dependent business incurred or discharged a debt which is reportable under this subsection during the preceding calendar year, the report shall disclose that the transaction was made and the date it occurred.

7. The identification and amount of each debt exceeding one thousand dollars owed at any time during the preceding calendar year to the public officer and members of his household in their own names, or to any other person for the use or benefit of the public officer or any member of his household. The disclosure shall include the identification and amount of each debt exceeding ten thousand dollars to a controlled business or dependent business which was also more than thirty per cent of the total indebtedness to the business at any time during the preceding calendar year. This paragraph shall not be construed to require the disclosure of debts from the ordinary conduct of a business other than a controlled or dependent business. If the public officer, any member of his household or a controlled or dependent business incurred or discharged a debt which is reportable under this subsection during the preceding year, the report shall disclose that the transaction was made and the date it occurred.

8. The name of each source of any gift, or accumulated gifts from a single source, of more than five hundred dollars received by the public officer and members of his household in their own names during the preceding calendar year, or by any other person for the use or benefit of the public officer or any member of his household except gifts received by will or by virtue of intestate succession, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor, or gifts received from any other member of the household or relatives to the second degree of consanguinity. Political campaign contributions shall not be construed as gifts if otherwise publicly reported as political campaign contributions as required by law.

9. A list of all business licenses issued to, held by or in which the public officer or any member of his household had an interest at any time during the preceding calendar year, including the name in which the license was issued, the type of business and its location.

10. A list of all bonds, together with their value, issued by this state or any political subdivision of this state and held at any time during the preceding calendar year by the public officer or any member of his household, which bonds issued by a single entity had a value in excess of one thousand dollars. If the public officer or any member of his household acquired or divested any bonds during the preceding calendar year which are reportable under this paragraph, the fact that the transaction occurred and the date shall also be shown.

B. If an amount or value is required to be reported pursuant to this section, it is sufficient to report whether the amount or value of the equity interest falls within:

1. Category 1, one thousand dollars to twenty-five thousand dollars.
2. Category 2, more than twenty-five thousand dollars to one hundred thousand dollars.
3. Category 3, more than one hundred thousand dollars.

C. This section does not require the disclosure of any information that is privileged by law.

D. The statement required to be filed pursuant to subsection A shall be filed by all persons who qualified as public officers at any time during the preceding calendar year on or before January 31 of each year with the exceptions that a public officer appointed to fill a vacancy shall, within sixty days following his taking of such office, file a financial disclosure statement covering as his annual period the twelve month period ending with the last full month prior to the date of his taking office, and a public officer whose final term expires less than thirty-one days into the immediately following calendar year may file the public officer's final financial disclosure at the same time as the disclosure for the last immediately preceding year.

E. The secretary of state shall prepare written guidelines, forms and samples for completing the financial disclosure statement required by this section. A copy of the guidelines, forms and samples shall be distributed to each public officer and shall be made available to each candidate required to file a financial disclosure statement pursuant to section 38-543.

38-543. Duty to file financial disclosure statement by candidate for public office

A candidate for public office as specified in section 38-541, paragraph 8 shall file a financial disclosure statement covering the preceding twelve month period and containing the information described in section 38-542 on a form prescribed by the secretary of state at the time of filing of nomination papers.

38-544. Violation; classification

A. Any public officer, local public officer or candidate who knowingly fails to file a financial disclosure statement required pursuant to section 38-542, 38-543 or 38-545, who knowingly files an incomplete financial disclosure statement or who knowingly files a false financial disclosure statement is guilty of a class 1 misdemeanor.

B. Any public officer, local public officer or candidate who violates this chapter is subject to a civil penalty of fifty dollars for each day of noncompliance but not more than five hundred dollars that may be imposed as prescribed in section 16-924.

GIFTS AND EXTRA COMPENSATION

38-444. Asking or receiving illegal gratuity or reward; classification

A public officer who knowingly asks or receives any emolument, gratuity or reward, or any promise thereof, excepting those authorized by law, for doing any official act, is guilty of a class 6 felony.

38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

41-1231. Definitions

In this article, unless the context otherwise requires:

1. "Authorized lobbyist" means any person, other than a designated lobbyist or lobbyist for compensation, who is employed by, retained by or representing a principal with or without compensation for the purpose of lobbying and who is listed as an authorized lobbyist by the principal in its registration pursuant to section 41-1232.

2. "Authorized public lobbyist" means a person, other than a designated public lobbyist, who is employed by, retained by or representing a public body, with or without compensation, for the purpose of lobbying and who is listed as an authorized public lobbyist by the public body in its registration pursuant to section 41-1232.01.

3. "Designated lobbyist" means the person who is designated by a principal as the single point of contact for the principal and who is listed as the designated lobbyist by the principal in its registration pursuant to section 41-1232.

4. "Designated public lobbyist" means the person who is designated by a public body as the single point of contact for the public body and who is listed as the designated public lobbyist by the public body in its registration pursuant to section 41-1232.01.

5. "Entertainment" means the amount of any expenditure paid or incurred for admission to any sporting or cultural event or for participation in any sporting or cultural activity.

6. "Expenditure" means a payment, distribution, loan, advance, deposit or gift of money or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure that provides a benefit to an individual state officer or state employee and that is incurred by or on behalf of one or more principals, public bodies, lobbyists, designated public lobbyists or authorized public lobbyists.

7. "Family gift" means a gift to a state officer or employee or a member of the officer's or employee's household from a principal, lobbyist, designated public lobbyist or authorized public lobbyist who is a relative of the state officer or employee or a member of the household of the state officer or employee if the donor is not acting as the agent or intermediary for someone other than a person covered by this paragraph.

8. "Food or beverage" means the amount of any expenditure paid or incurred for food or beverages for a state officer or employee provided at a location at which the principal, public body, lobbyist, designated public lobbyist or authorized public lobbyist who made the expenditure is present.

9. "Gift" means a payment, distribution, expenditure, advance, deposit or donation of money, any intangible personal property or any kind of tangible personal or real property. For purposes of this article gift does not include:

(a) A gift, devise or inheritance from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or the spouse of any such individual if the donor is not acting as the agent or intermediary for someone other than a person covered by this subdivision.

(b) Expenditures which are either properly reported or exempt from reporting under this chapter for:

(i) A speaking engagement.

(ii) Food or beverages.

(iii) Travel and lodging.

(iv) Flowers.

(c) Salary, compensation or employer reimbursed expenses lawfully paid to a public official.

(d) The value, cost or price of professional or consulting services that are not rendered to obtain a benefit for any registered principal, public body, lobbyist, designated public lobbyist or authorized public lobbyist or the clients of a principal or lobbyist.

(e) Expenses relating to a special event or function to which all members of the legislature, either house of the legislature or any committee of the legislature are invited.

(f) A plaque or other form of recognition similar to a plaque to a state officer or state employee to signify the honorary recognition of a service or other notable accomplishment.

(g) Informational material such as books, reports, pamphlets, calendars or periodicals.

(h) An item that is not used and that is returned within fifteen days of receipt to the donor or that is delivered within fifteen days of receipt to a charitable organization and that is not claimed as a charitable contribution for state or federal income tax purposes.

(i) A campaign contribution that is properly received and reported as required by law.

(j) An item that is given to a state officer or employee if the state officer or employee gives an item of approximately the same value to the giver of the item at the same time that the item is given or on a similar occasion as the one that prompted the original item to be given.

(k) Gifts of a personal nature that were customarily received by an individual from the donor before the individual became a state officer or employee.

(l) An item that is given to the general public at an event.

10. "Legislation" means bills, resolutions, memorials, amendments, nominations and other matters that are pending or proposed in either house of the legislature of this state or for the purposes of bonding lobbying for any matter pending or proposed before a school district governing board.

11. "Lobbying" means attempting to influence the passage or defeat of any legislation by directly communicating with any legislator, or in the case of bonding, lobbyists directly communicating with any school district employee or a school district governing board member or attempting to influence any formal rule making proceeding pursuant to chapter 6 of this title or rule making proceedings that are exempt from chapter 6 of this title by directly communicating with any state officer or employee. Lobbying does not include:

(a) Interagency communications between state agency employees.

(b) Communications between a public official or employee of a public body, designated public lobbyist or authorized public lobbyist and any state officer, except for a member of the legislature, or an employee of the legislature.

(c) Oral questions or comments made by a person to a state officer or employee regarding a proposed rule and made in public at a meeting or workshop that is open to the public and that is sponsored by a state agency, board, commission, council or office.

12. "Lobbyist" means any person, other than a designated public lobbyist or authorized public lobbyist, who is employed by, retained by or representing a person other than himself, with or without compensation, for the purpose of lobbying and who is listed as a lobbyist by the principal in its registration pursuant to section 41-1232. Lobbyist includes a lobbyist for compensation, designated lobbyist and authorized lobbyist. Lobbyist includes attorneys whose practice involves bonding, underwriters of bonds and investment bankers whose business includes bonding.

13. "Lobbyist for compensation" means a lobbyist who is compensated for the primary purpose of lobbying on behalf of a principal and who is listed by the principal in its registration pursuant to section 41-1232.

14. "Person" means an individual, partnership, committee, association or corporation and any other organization or group of persons, except legislators and political parties qualified for representation on the ballot pursuant to section 16-801 or 16-804.

15. "Personal hospitality" means hospitality, meals, beverages, transportation or lodging furnished but not commercially provided by a person on property or facilities owned or possessed by the person or the person's family.

16. "Principal" means any person, other than a public body, that employs, retains, engages or uses, with or without compensation, a lobbyist. Principal includes any subsidiary of a corporation.

17. "Public body" means the Arizona board of regents, a university under the jurisdiction of the Arizona board of regents, the judicial department, any state agency, board, commission or council, any county, any county elected officer who elects to appoint a designated public lobbyist or any city, town, district or other political subdivision of this state that receives and utilizes tax revenues and that employs, retains,

engages or uses, with or without compensation, a designated public lobbyist or authorized public lobbyist.

18. "Public official" means a person who is duly elected, appointed or retained through election to an elected state, county or local office.

19. "Single expenditure" means an expenditure that provides a benefit of more than twenty dollars to an individual state officer or state employee and that is incurred by or on behalf of one or more principals, public bodies, lobbyists, designated public lobbyists or authorized public lobbyists.

20. "Speaking engagement":

(a) Means the amount of any expense paid or incurred for entrance fees, lodging, food and beverage, entertainment, travel and other expenses for the state officer's or employee's attendance at an event, committee, meeting, conference or seminar, including meetings of state, regional or national organizations or their committees concerned with legislative or governmental activities if the state officer or employee participates in the event as a speaker or panel participant by presenting information relating to the state officer's or employee's legislative or official duties or by performing a ceremonial function appropriate to the state officer's or employee's position.

(b) Does not include expenditures for an honorarium or any other similar fee paid to a speaker.

21. "State employee" means an employee of the legislature, a university under the jurisdiction of the Arizona board of regents, the judicial department or a state office, agency, board, commission or council.

22. "State officer" means a person who is duly elected, appointed or retained through election to any state office, or a member of any state board, commission or council, and includes a member of the legislature.

41-1232.02. Expenditure reporting; principals and lobbyists; gifts

...

I. A person or organization shall not make a gift to or an expenditure on behalf of a member or employee of the legislature through another person or organization for the purpose of disguising the identity of the person making the gift or expenditure.

J. A public body, designated public lobbyist or authorized public lobbyist or any other person acting on behalf of a public body, designated public lobbyist or authorized public lobbyist shall not give to any member of the legislature and a member of the legislature shall not accept from a public body, designated public lobbyist or authorized public lobbyist either of the following:

1. Gifts with a total value of more than ten dollars during any calendar year.

2. Gifts that are designed to influence the member's or employee's official conduct.

K. Subsection J of this section does not apply to gifts given by a public body, designated public lobbyist or authorized public lobbyist to an employee of a public body, if the employee is not a public official or a member of the household of a public official or if the gift is accepted on behalf of the public body and remains the property of the public body.

41-1232.03. Expenditure reporting; public bodies and public lobbyists; gifts

...

I. A person or organization shall not make a gift to or an expenditure on behalf of a member or employee of the legislature through another person or organization for the purpose of disguising the identity of the person making the gift or expenditure.

J. A public body, designated public lobbyist or authorized public lobbyist or any other person acting on behalf of a public body, designated public lobbyist or authorized public lobbyist shall not give to any member of the legislature and a member of the legislature shall not accept from a public body, designated public lobbyist or authorized public lobbyist either of the following:

1. Gifts with a total value of more than ten dollars during any calendar year.

2. Gifts that are designed to influence the member's or employee's official conduct.

K. Subsection J of this section does not apply to gifts given by a public body, designated public lobbyist or authorized public lobbyist to an employee of a public body, if the employee is not a public official or a member of the household of a public official or if the gift is accepted on behalf of the public body and remains the property of the public body.

41-1232.08. Entertainment ban; state and political subdivisions

A. A principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for a state officer or state employee. A state officer or state employee shall not accept an expenditure or single expenditure for entertainment from a principal, designated lobbyist, authorized lobbyist, lobbyist for compensation, public body, designated public lobbyist or authorized public lobbyist or any other person acting on that person's behalf.

B. A person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board or any person acting on that person's behalf shall not make an expenditure or single expenditure for entertainment for an elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board. An elected or appointed member of the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board shall not accept an expenditure or single expenditure for entertainment from a person who for compensation attempts to influence the passage or defeat of legislation, ordinances, rules, regulations, nominations and other matters that are pending or proposed or that are subject to formal approval by the corporation commission, a county board of supervisors, a city or town governing body or a school district governing board.

C. This section shall not apply to:

1. Entertainment in connection with a special event properly reported pursuant to this article.

2. Entertainment that is incidental to a speaking engagement.

3. The following persons while attending or participating in any sporting or cultural event or activity, sponsored by the board, district or institution, in a facility that is owned or operated by the board, district or institution:

(a) Employees of a school district governing board.

(b) Employees of a community college district governing board.

(c) Employees of any institution under the jurisdiction of the Arizona board of regents.

D. The provisions of this article that define special events for legislators apply to special events for members of the Arizona board of regents.

41-1237. Violation; classification

A. Any person who knowingly violates any of the provisions of this article and any person who knowingly files any document provided for in this article that contains any materially false statement or material omission or any person who knowingly fails to comply with any material requirement of this article is guilty of a class 1 misdemeanor unless another classification is specifically prescribed in this article.

B. Any alleged violation of any provisions of this article may be investigated and prosecuted by the attorney general or by the county attorney of the county in which the alleged offense was committed.

INCOMPATIBLE EMPLOYMENT

38-296. Limitation upon filing for election by incumbent of elective office

A. Except during the final year of the term being served, no incumbent of a salaried elective office, whether holding by election or appointment, may offer himself for nomination or election to any salaried local, state or federal office.

B. An incumbent of a salaried elected office shall be deemed to have offered himself for nomination or election to a salaried local, state or federal office upon the filing of a nomination paper pursuant to section 16-311, subsection A or formal public declaration of candidacy for such office whichever occurs first.

C. The resignation of the incumbent elective officer duly filed in writing with the officer, board or commission having jurisdiction of the office shall, if not accepted within ten days, be deemed to have become effective as of the date of filing.

D. This section shall not be construed to prohibit a person whose resignation from office has become effective from qualifying as a candidate for another office during the unexpired portion of the term affected by the resignation, nor shall it apply to any incumbent elective officer who seeks re-election to the same office or to any other public office during the final year of the term to which he has been so elected.

E. A person violating any provision of this section is guilty of misfeasance in office and the office held by such person shall be declared vacant.

MISUSE OF PUBLIC RESOURCES FOR PERSONAL GAIN

38-504. Prohibited acts

...

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

POLITICAL ACTIVITY BY PUBLIC EMPLOYEES

41-752. Prohibitions; violation; classification; civil penalty; protection of civil or political liberties

A. An employee shall not:

1. Use any political endorsement in connection with any appointment to a position in the state service.

2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.

B. An employee or member of the personnel board shall not be a member of any national, state or local committee of a political party, an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, shall not hold any paid, elective public office or shall not take any part in the management or affairs of any political party or in the management of any partisan or nonpartisan campaign or recall effort, except that any employee may:

1. Express his opinion.

2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues.

3. Cast his vote and sign nomination or recall petitions.

4. Make contributions to candidates, political parties or campaign committees contributing to candidates or advocating the election or defeat of candidates.

5. Circulate candidate nomination petitions or recall petitions.

6. Engage in activities to advocate the election or defeat of any candidate.

7. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.

C. Except for expressing his opinion or pursuant to section 16-402, an employee shall not engage in any activity permitted by this section while on duty, while in uniform or at public expense.

D. A person shall not solicit any employee or a member of the personnel board to engage or not engage in activities permitted by this section with the direct or indirect use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.

E. A person shall not subject any employee or a member of the personnel board engaging in activity permitted by this section to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.

F. A person shall not subject any employee or member of the personnel board who chooses not to engage in any activity permitted by this section to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement or compensation.

G. The provisions of this section do not apply to school board elections or community college district governing board elections, and an employee may serve as a member of the governing board of a common or high school district or as a member of a community college district governing board.

H. An employee who violates any of the provisions of this section shall be subject to suspension of not less than thirty days or dismissal.

I. A person who violates:

1. Subsection D, E or F of this section is guilty of a class 6 felony.
2. Any other provision of this section is guilty of a class 1 misdemeanor.

J. In addition to any other penalty, any person soliciting or encouraging a contribution in a manner prohibited by this section is subject to a civil penalty of up to three times the amount of the contribution solicited or encouraged plus costs, expenses and reasonable attorney fees.

K. Nothing contained in this section shall be construed as denying any employee or board member his civil or political liberties as guaranteed by the United States and Arizona Constitutions.

L. It is the public policy of this state, reflected in this section, that government programs be administered in an unbiased manner and without favoritism for or against any political party or group or any member in order to promote public confidence in government, governmental integrity and the efficient delivery of governmental services and to ensure that all employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any activity permitted by this section. Toward this end, any person or entity charged with the interpretation of this section shall take into account the policy of this section and shall construe any of its provisions accordingly.

PUBLIC ACCESS TO RECORDS

39-121. Inspection of public records

Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours.

39-121.01. Definitions; maintenance of records; copies, printouts or photographs of public records; examination by mail; index

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

1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.

2. "Public body" means this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state.

B. All officers and public bodies shall maintain all records, including records as defined in section 41-151.19, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from this state or any political subdivision of this state.

C. Each public body shall be responsible for the preservation, maintenance and care of that body's public records, and each officer shall be responsible for the preservation, maintenance and care of that officer's public records. It shall be the duty of each such body to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction, unless disposed of pursuant to sections 41-151.15 and 41-151.19.

D. Subject to section 39-121.03:

1. Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours or may request that the custodian mail a copy of any public record not otherwise available on the public body's website to the requesting person. The custodian may require any person requesting that the custodian mail a copy of any public record to pay in advance for any copying and postage charges. The custodian of such records shall promptly furnish such copies, printouts or photographs and may charge a fee if the facilities are available, except that public records for purposes listed in section 39-122 or 39-127 shall be furnished without charge.

2. If requested, the custodian of the records of an agency shall also furnish an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld from the requesting person. The custodian shall not include in the index information that is expressly made privileged or

confidential in statute or a court order. This paragraph shall not be construed by an administrative tribunal or a court of competent jurisdiction to prevent or require an order compelling a public body other than an agency to furnish an index. For the purposes of this paragraph, "agency" has the same meaning prescribed in section 41-1001, but does not include the department of public safety, the department of transportation motor vehicle division, the department of juvenile corrections and the state department of corrections.

3. If the custodian of a public record does not have facilities for making copies, printouts or photographs of a public record which a person has a right to inspect, such person shall be granted access to the public record for the purpose of making copies, printouts or photographs. The copies, printouts or photographs shall be made while the public record is in the possession, custody and control of the custodian of the public record and shall be subject to the supervision of such custodian.

E. Access to a public record is deemed denied if a custodian fails to promptly respond to a request for production of a public record or fails to provide to the requesting person an index of any record or categories of records that are withheld from production pursuant to subsection D, paragraph 2 of this section.

39-127. Free copies of police reports for crime victims; definitions

A. A victim of a criminal offense that is a part I crime under the statewide uniform crime reporting program or an immediate family member of the victim if the victim is killed or incapacitated has the right to receive one copy of the police report from the investigating law enforcement agency at no charge.

B. For the purposes of this section, "criminal offense", "immediate family" and "victim" have the same meanings prescribed in section 13-4401.

41-1106. Records; debate and testimony; definition

Each house of the legislature shall keep, for a period of three years, an audiotape or verbatim transcription or other similar accurate record of debate and testimony occurring in committee and on the chamber floor. For purposes of this section "committee" includes standing committees, subcommittees, conference committees, interim committees and committees that are established by law or by either presiding officer.

41-4153. Agency reports; availability on line

A. An agency that maintains an agency web site shall post on the agency web site a copy of any annual report of activities that the agency:

1. Is required by law to make.
2. Elects to make.

B. An agency that posts a copy of an annual report pursuant to subsection A of this section shall not distribute printed copies of the report except:

1. To the governor, the president of the senate and the speaker of the house of representatives.

2. The agency shall distribute a sufficient number of printed copies of the annual report to the Arizona state library, archives and public records. The agency shall include a notice on the agency web site that a copy of the annual report is available for interlibrary loan from the Arizona state library, archives and public records.

3. Pursuant to a request made pursuant to title 39.

C. An agency that posts a copy of an annual report pursuant to subsection A of this section:

1. Shall send an electronic or printed notification to the governor, each member of the house of representatives and the senate and the director of the Arizona state library, archives and public records that the annual report has been posted on the agency web site.

2. May send an electronic or printed notification to any person not specified in paragraph 1 of this subsection that the annual report has been posted on the agency web site.

D. The printed copies of an annual report distributed pursuant to subsection B of this section shall comply with the requirements of section 39-102.

OPEN MEETING LAWS

38-431. Definitions

In this article, unless the context otherwise requires:

1. "Advisory committee" or "subcommittee" means any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.

2. "Executive session" means a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03. In addition to the members of the public body, officers, appointees and employees as provided in section 38-431.03 and the auditor general as provided in section 41-1279.04, only individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session.

3. "Legal action" means a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state.

4. "Meeting" means the gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such action.

5. "Political subdivision" means all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts.

6. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

7. "Quasi-judicial body" means a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.

38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.

B. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, such minutes or recording shall include, but not be limited to:

1. The date, time and place of the meeting.
2. The members of the public body recorded as either present or absent.
3. A general description of the matters considered.
4. An accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material.

C. Minutes of executive sessions shall include items set forth in subsection B, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by the public body.

D. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.

E. A public body of a city or town with a population of more than two thousand five hundred persons shall:

1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its website, if applicable, either:

- (a) A statement describing the legal actions taken by the public body of the city or town during the meeting.

- (b) Any recording of the meeting.

2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its website, if applicable, except as otherwise specifically provided by this article.

3. Within ten working days after a subcommittee or advisory committee meeting, post on its website, if applicable, either:

- (a) A statement describing legal action, if any.

- (b) A recording of the meeting.

F. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

G. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall conspicuously post open meeting law materials prepared and approved by the attorney general on their website. A person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office.

H. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a

matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

I. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.

J. Any posting required by subsection E of this section must remain on the applicable website for at least one year after the date of the posting.

38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:

1. The public bodies of this state, including governing bodies of charter schools, shall:

(a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. a technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

2. The public bodies of the counties and school districts shall:

(a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. a technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

3. Special districts that are formed pursuant to title 48:

(a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

(c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

4. The public bodies of the cities and towns shall:

(a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

B. If an executive session is scheduled, a notice of the executive session shall state the provision of law authorizing the executive session, and the notice shall be provided to the:

1. Members of the public body.
2. General public.

C. Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in section 1-301.

D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.

F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.

G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours before the meeting, except in the case of an actual emergency under subsection D of this section. The twenty-four hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting, but excludes Sundays and other holidays prescribed in section 1-301.

H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. The agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee or compromise the attorney-client privilege.

J. Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

K. Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.
2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.

2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.

3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.

4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.

5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.

6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.

7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.

B. Minutes of and discussions made at executive sessions shall be kept confidential except from:

1. Members of the public body which met in executive session.

2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.

3. The auditor general on a request made in connection with an audit authorized as provided by law.

4. A county attorney or the attorney general when investigating alleged violations of this article.

C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.

D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.

E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.

F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

38-431.04. Writ of mandamus

Where the provisions of this article are not complied with, a court of competent jurisdiction may issue a writ of mandamus requiring that a meeting be open to the public.

38-431.05. Meeting held in violation of article; business transacted null and void; ratification

A. All legal action transacted by any public body during a meeting held in violation of any provision of this article is null and void except as provided in subsection B.

B. A public body may ratify legal action taken in violation of this article in accordance with the following requirements:

1. Ratification shall take place at a public meeting within thirty days after discovery of the violation or after such discovery should have been made by the exercise of reasonable diligence.

2. The notice for the meeting shall include a description of the action to be ratified, a clear statement that the public body proposes to ratify a prior action and information on how the public may obtain a detailed written description of the action to be ratified.

3. The public body shall make available to the public a detailed written description of the action to be ratified and all deliberations, consultations and decisions by members of the public body that preceded and related to such action. The written description shall also be included as part of the minutes of the meeting at which ratification is taken.

4. The public body shall make available to the public the notice and detailed written description required by this section at least seventy-two hours in advance of the public meeting at which the ratification is taken.

38-431.06. Investigations; written investigative demands

A. On receipt of a written complaint signed by a complainant alleging a violation of this article or on their own initiative, the attorney general or the county attorney for the county in which the alleged violation occurred may begin an investigation.

B. In addition to other powers conferred by this article, in order to carry out the duties prescribed in this article, the attorney general or the county attorney for the county in which the alleged violation occurred, or their designees, may:

1. Issue written investigative demands to any person.

2. Administer an oath or affirmation to any person for testimony.

3. Examine under oath any person in connection with the investigation of the alleged violation of this article.

4. Examine by means of inspecting, studying or copying any account, book, computer, document, minutes, paper, recording or record.

5. Require any person to file on prescribed forms a statement or report in writing and under oath of all the facts and circumstances requested by the attorney general or county attorney.

C. The written investigative demand shall:

1. Be served on the person in the manner required for service of process in this state or by certified mail, return receipt requested.

2. Describe the class or classes of documents or objects with sufficient definiteness to permit them to be fairly identified.

3. Prescribe a reasonable time at which the person shall appear to testify and within which the document or object shall be produced and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or county attorney on or before that time.

4. Specify a place for the taking of testimony or for production of a document or object and designate a person who shall be the custodian of the document or object.

D. If a person objects to or otherwise fails to comply with the written investigation demand served on the person pursuant to subsection C, the attorney general or county attorney may file an action in the superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in Maricopa county or in the county in which the alleged violation occurred. Notice of hearing the action to enforce the demand and a copy of the action shall be served on the person in the same manner as that prescribed in the Arizona rules of civil procedure. If a court finds that the demand is proper, including that the compliance will not violate a privilege and that there is not a conflict of interest on the part of the attorney general or county attorney, that there is reasonable cause to believe there may have been a violation of this article and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe. If the person fails to comply with the court's order, the court may issue any of the following orders until the person complies with the order:

1. Adjudging the person in contempt of court.
2. Granting injunctive relief against the person to whom the demand is issued to restrain the conduct that is the subject of the investigation.
3. Granting other relief the court deems proper.

38-431.07. Violations; enforcement; removal from office; in camera review

A. Any person affected by an alleged violation of this article, the attorney general or the county attorney for the county in which an alleged violation of this article occurred may commence a suit in the superior court in the county in which the public body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of, this article, by members of the public body, or to determine the applicability of this article to matters or legal actions of the public body. For each violation the court may impose a civil penalty not to exceed five hundred dollars against a person who violates this article or who knowingly aids, agrees to aid or attempts to aid another person in violating this article and order such equitable relief as it deems appropriate in the circumstances. The civil penalties awarded pursuant to this section shall be deposited into the general fund of the public body concerned. The court may also order payment to a successful plaintiff in a suit brought under this section of the plaintiff's reasonable attorney fees, by the defendant state, the political subdivision of the state or the incorporated city or town of which the public body is a part or to which it reports. If the court determines that a public officer with intent to deprive the public of information violated any provision of this article the court may remove the public officer from office and shall assess the public officer or a person who knowingly aided, agreed to aid or attempted to aid the public officer in violating this article, or both, with all of the costs and attorney fees awarded to the plaintiff pursuant to this section.

B. A public body shall not expend public monies to employ or retain legal counsel to provide legal services or representation to the public body or any of its officers in any legal action commenced pursuant to any provisions of this article, unless the public body has authority to make such expenditure pursuant to other provisions of law and takes a legal action at a properly noticed open meeting approving such expenditure prior to incurring any such obligation or indebtedness.

C. In any action brought pursuant to this section challenging the validity of an executive session, the court may review in camera the minutes of the executive session, and if the court in its discretion determines that the minutes are relevant and that justice so demands, the court may disclose to the parties or admit in evidence part or all of the minutes.

38-431.08. Exceptions; limitation

A. This article does not apply to:

1. Any judicial proceeding of any court or any political caucus of the legislature.
2. Any conference committee of the legislature, except that all such meetings shall be open to the public.

3. The commissions on appellate and trial court appointments and the commission on judicial qualifications.

4. Good cause exception and central registry exception determinations and hearings conducted by the board of fingerprinting pursuant to sections 41-619.55 and 41-619.57.

B. A hearing held within a prison facility by the board of executive clemency is subject to this article, except that the director of the state department of corrections may:

1. Prohibit, on written findings that are made public within five days of so finding, any person from attending a hearing whose attendance would constitute a serious threat to the life or physical safety of any person or to the safe, secure and orderly operation of the prison.

2. Require a person who attends a hearing to sign an attendance log. If the person is over sixteen years of age, the person shall produce photographic identification that verifies the person's signature.

3. Prevent and prohibit any articles from being taken into a hearing except recording devices and, if the person who attends a hearing is a member of the media, cameras.

4. Require that a person who attends a hearing submit to a reasonable search on entering the facility.

C. The exclusive remedies available to any person who is denied attendance at or removed from a hearing by the director of the state department of corrections in violation of this section shall be those remedies available in section 38-431.07, as against the director only.

D. Either house of the legislature may adopt a rule or procedure pursuant to article IV, part 2, section 8, Constitution of Arizona, to provide an exemption to the notice and agenda requirements of this article or to allow standing or conference committees to meet through technological devices rather than only in person.

38-431.09. Declaration of public policy

A. It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe this article in favor of open and public meetings.

B. Notwithstanding subsection A, it is not a violation of this article if a member of a public body expresses an opinion or discusses an issue with the public either at a venue other than at a meeting that is subject to this article, personally, through the media or other form of public broadcast communication or through technological means if:

1. The opinion or discussion is not principally directed at or directly given to another member of the public body.
2. There is no concerted plan to engage in collective deliberation to take legal action.

**CONDUCT AFTER LEAVING ONE'S POSITION
WITH THE GOVERNMENT**

38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

...

41-1233. Prohibited acts

No person shall:

...

2. Lobby the legislature for compensation within one year after the person ceases to be a member of the senate or house of representatives.

...