Senate Engrossed House Bill

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CHAPTER 215

HOUSE BILL 2667

AN ACT

AMENDING SECTIONS 6-433, 6-636, 8-242, 8-271, 8-272, 8-503, 8-514, 8-514.01, 8-530, 8-701, 8-806, 11-251, 11-267, 11-292, 11-301, 11-424.02, 11-1024, 12-128.01, 12-302, 12-1596, 13-701, 13-925, 13-3101, 13-3994, 14-5312, 14-5425, 14-5501, 14-5502, 14-5503, 14-6205, 14-6222, 14-6223, 14-6224, 14-6226, 14-10103, 15-808, 15-891, 15-905, 15-948, 15-1201, 15-1325, 15-1371, 15-1650.01, 15-1808, 15-2401, 16-549, 16-581, 17-332, 20-294, 20-505, 20-826, 20-1341, 20-1342.01, 20-1346, 20-1407, 20-1603, 20-1631, 20-2501, 20-3211, 23-501, 23-502, 23-503, 23-503.01, 23-506, 23-901.04, 23-901.07, 23-1065, 23-1071, 25-320, 25-327, 25-501, 25-809, 28-882, 28-884, 28-2409, 28-2531, 28-3165, 28-5802, 28-5803, 30-807, 31-201.01, 31-226, 31-239, 32-730, 32-2107.01, 32-2133, 32-2612, 33-1125, 35-701, 36-104, 36-132, 36-136, 36-203, 36-260, 36-261, 36-262, 36-263, 36-481, 36-501, 36-519, 36-520, 36-521, 36-523, 36-529, 36-531, 36-533, 36-535, 36-539, 36-540, 36-540.01, 36-540.02, 36-541, 36-541.01, 36-543, 36-548, 36-551, 36-551.01, 36-552, 36-553, 36-554, 36-555, 36-556, 36-557, 36-558.01, 36-559, 36-560, 36-562, 36-564, 36-565, 36-569, 36-572, 36-595.01, 36-596.01, 36-596.56, 36-671, 36-695, 36-697, 36-899.01, 36-1409, 36-1409.01, 36-2201, 36-2281, 36-2283, 36-2902.01, 36-2911, 36-2933, 36-2934, 36-2939, 36-2940, 36-2944, 36-2959, 36-2986, 36-3205, 36-3251, 36-3405, 37-525, 38-492, 38-651.01, 38-712, 38-745, 38-755, 38-765, 38-769, 38-782, 38-783, 38-797, 38-797.07, 38-797.08, 38-807, 38-833, 38-840.07, 38-844.06, 38-846, 38-849, 38-886, 38-886.01, 38-904, 38-956, 40-113, 40-335, 41-151.07, 41-621, 41-901, 41-921, 41-941,

41-942, 41-983.02, 41-1481, 41-1491.19, 41-1543, 41-1973, 41-1974, 41-2636, 41-2821, 41-3016.28, 41-3801, 41-3953 AND 41-3954, ARIZONA REVISED STATUTES; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 51; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 5 AND LAWS 2013, FIRST REGULAR SESSION, CHAPTER 120, SECTION 1 AND CHAPTER 233, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 13; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 7; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 255, SECTION 17; AMENDING SECTIONS 42-11105, 42-11106, 42-11111, 42-11153, 42-12004, 43-1088, 44-1562, 44-1950, 45-315, 46-191, 46-241.02, 46-251, 46-299, 46-451, 46-741, 48-222, 48-3049 AND 48-5308, ARIZONA REVISED STATUTES; RELATING TO STATUTORY TERMINOLOGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 6-433, Arizona Revised Statutes, is amended to read:

6-433. Payment on disability or death of holder in his own right of account

A. If the holder in his own right of an account becomes ~~disabled~~ A PERSON WITH A DISABILITY and a conservator has been appointed, by a court of competent jurisdiction, and has qualified then the association may pay the value of such account and dividends thereon to the conservator. Until the association has actual knowledge that a conservator has been appointed, it may pay to the protected person personally and his receipt or acquittance therefor shall be a complete discharge of the association as to the amount so paid.

B. Upon the death of a holder in his own right of an account, the association, upon receipt of proper estate tax waivers, may pay the value thereof and dividends thereon:

1. To the personal representative of such deceased holder, if and when qualified, in the manner provided in this chapter for the voluntary withdrawal of account generally.

2. To the successor of such deceased holder upon presentation of an affidavit pursuant to section 14-3971.

Sec. 2. Section 6-636, Arizona Revised Statutes, is amended to read:

6-636. Insurance securing loan; cancellation; notice

A. The following types of insurance may be sold to the consumer in connection with a consumer lender loan and the consumer may contract for:

1. Property insurance covering any property securing a consumer lender loan.

2. Life insurance insuring the life of one or more consumers obligated on a consumer lender loan.

3. Credit disability insurance that provides indemnity for payments due on a consumer lender loan while any covered consumer ~~is disabled~~ HAS A DISABILITY.

4. Credit involuntary unemployment insurance that provides indemnity for payments due on a consumer lender loan while one or more consumers are involuntarily unemployed.

B. Any insurance purchased by a consumer from or through a licensee, except insurance on property securing a consumer lender loan, is optional, and a licensee shall not refuse to make a consumer lender loan based on the consumer's refusal to purchase the insurance. The consumer may cancel any insurance purchased in connection with a consumer lender loan for any reason at any time within thirty days after the consumer lender loan is made and shall mail or deliver a written notice of the cancellation to the licensee's place of business. If the consumer cancels the insurance pursuant to this subsection, the consumer is entitled to a full refund of any premiums paid for the insurance. Before executing the note or agreement evidencing a

consumer lender loan that includes a premium for insurance, the licensee shall give the consumer the disclosures required to exclude those insurance premiums from the finance charge in accordance with the truth in lending act.

C. At the time the insurance is sold the licensee shall mail or deliver a written receipt or binder to the consumer. Within thirty days after mailing or delivering the written receipt or binder, the licensee shall deliver to the consumer, or if more than one, to any one of them, a policy or certificate of insurance covering any insurance purchased by or through the licensee or any employee or affiliate of the licensee in connection with the consumer lender loan that sets forth the amount of any premium that the consumer has paid or is obligated to pay, the amount of insurance, the term of insurance and a description of the coverage. The policy or certificate may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee.

D. All property insurance sold pursuant to this section shall bear a reasonable bona fide relation to the existing hazard or risk of loss and shall be written by an agent licensed in this state and by an insurance company authorized to conduct property insurance business in this state. A licensee shall not require the purchase of property insurance from the licensee or any employee, affiliate or associate of the licensee as a condition precedent to the making of a consumer lender loan. The licensee may otherwise designate the company in which the insurance shall be placed as long as the insurance company is authorized to conduct business in this state.

E. Property insurance, if sold by a licensee in connection with a consumer loan, is at the option of the consumer in an amount not exceeding the greater of the reasonable value of the property insured as designated in writing by the consumer or the approximate amount of the consumer loan and shall be for a term not exceeding the approximate term of the consumer loan. However, the amount of this property insurance may not exceed the designated value of the property insured.

F. If a licensee sells property insurance in connection with a consumer revolving loan or a home equity revolving loan, the amount of the property insurance shall not exceed the greater of the reasonable value of the property insured as designated in writing by the consumer or the agreed on credit limit. However, the amount of property insurance shall not exceed the designated value of the insured property. The licensee may sell property insurance for renewable terms of not more than two years. Alternatively, the amount of property insurance may be equal to the balance outstanding on a consumer revolving loan or a home equity revolving loan from time to time with the premiums calculated on the basis of the actual daily unpaid balance or the average daily balance of the account during each billing cycle period. Premiums for property insurance may be charged as an advance on a consumer revolving loan or a home equity revolving loan.

G. If the licensee sells the consumer property insurance for a renewable term, the licensee shall mail a notice to the consumer at least thirty days before the renewal date that states all of the following:

1. The consumer's property insurance is about to expire.

2. The consumer may obtain property insurance from any source chosen by the consumer subject to the licensee's right to reasonably reject the insurer chosen by the consumer by providing written notice to the consumer of those reasons for rejection.

3. The term, coverage and premium for the renewal of property insurance.

4. The property insurance will be renewed on expiration unless the consumer provides the licensee before the expiration date with evidence that the consumer has obtained other property insurance.

H. Notwithstanding any other provision of this chapter, any advantage, commission, dividend, gain or identifiable charge for insurance authorized by this section, or otherwise, to the licensee or any employee or affiliate of the licensee from that insurance or its sale is not an additional finance charge or other allowed fee in connection with the consumer lender loan. If the licensee provides a new consumer lender loan or renews a contract of a consumer lender loan and the licensee sells the consumer new insurance, the licensee shall apply the insurance provided for in this section to the new loan or renewal, or the licensee shall cancel the prior insurance and provide the consumer with a refund or credit of the unearned premium or identifiable charge before selling the new insurance to the consumer.

I. The licensee shall determine the refund of unearned premiums for credit life insurance and credit disability insurance on prepayment in full according to title 20, chapter 6, article 10.

J. Except as otherwise specifically provided in this chapter, insurance transactions pursuant to this chapter are subject in all respects to the applicable laws pertaining to that insurance pursuant to title 20 and to the applicable rules adopted pursuant to title 20.

Sec. 3. Section 8-242, Arizona Revised Statutes, is amended to read:

8-242. <u>Evaluation and disposition of a child with developmental disabilities</u>

A. If evidence indicates that a child who is under the jurisdiction of the court pursuant to this chapter or chapter 3 or 10 of this title may be suffering from developmental disabilities, the juvenile court shall order a study and report on the child's condition.

B. If it appears from the study and the report that such child is ~~developmentally disabled~~ A CHILD WITH A DEVELOPMENTAL DISABILITY and the child has been adjudicated dependent, incorrigible or delinquent, the juvenile court shall hear the matter, and such child shall be assigned by the juvenile court pursuant to section 8-341 or 8-845. If a ~~developmentally disabled~~ child WITH A DEVELOPMENTAL DISABILITY is assigned by the juvenile

court to the department of economic security, such assignment shall be subject to the provisions of section 36-560.

C. If it appears from the study and report or hearing that the child is not subject to assignment as a ~~developmentally disabled~~ child WITH A DEVELOPMENTAL DISABILITY, the juvenile court shall proceed in the manner as otherwise provided by this chapter or chapter 3 or 10 of this title.

Sec. 4. Section 8-271, Arizona Revised Statutes, is amended to read:

8-271. Definitions

In this article, unless the context otherwise requires:

1. "Dually adjudicated child" means a child who is found to be dependent or temporarily subject to court jurisdiction pending an adjudication of a dependency petition and who is alleged or found to have committed a delinquent or incorrigible act.

2. "Entity" means the department of economic security, the department of juvenile corrections or a child welfare agency that has been granted legal care, custody and control of a child by order of the juvenile court and that is responsible for securing inpatient psychiatric acute care services or residential treatment services for a child. Entity includes a probation department or juvenile detention center that either recommends or is ordered by the court to provide inpatient psychiatric acute care services or residential treatment services for a child.

3. "Inpatient assessment" includes all of the following:

(a) The observation of a child's behavior while the child is in an inpatient assessment facility.

(b) Psychological or psychiatric testing, if indicated.

(c) A determination as to whether a child needs inpatient psychiatric acute care services and whether inpatient psychiatric acute care services are the least restrictive available alternative.

(d) The administration of psychotropic medication and medication monitoring, if necessary to complete the assessment or to prevent the child from being a danger to self or others.

(e) A written report that summarizes the results of an inpatient assessment, including specific recommendations for follow-up care.

(f) A psychiatric or psychological assessment, including a clinical interview with a child.

(g) An explanation to a child of the least restrictive alternatives available to meet the child's mental health needs.

(h) A determination as to whether the child may be suffering from a mental disorder, is a danger to self or others or is ~~persistently~~ A CHILD WITH A PERSISTENT or ~~acutely disabled~~ ACUTE DISABILITY or ~~gravely disabled~~ GRAVE DISABILITY, as defined in section 36-501.

(i) A review of a child's medical, social and psychological records, if available.

4. "Level one behavioral health facility" means a behavioral health service agency that is licensed by the department of health services and that

provides a structured treatment setting with twenty-four hour a day supervision and an intensive treatment program.

5. "Outpatient assessment" includes all of the following:

(a) A psychiatric or psychological assessment, including a clinical interview with a child.

(b) An explanation to a child of the least restrictive alternatives available to meet the child's mental health needs if determined at the time of the assessment.

(c) A determination as to whether the child may be suffering from a mental disorder, is a danger to self or others or is ~~persistently~~ A CHILD WITH A PERSISTENT or ~~acutely disabled~~ ACUTE DISABILITY or ~~gravely disabled~~ GRAVE DISABILITY.

(d) A review of a child's medical, social and psychological records, if available.

(e) A determination as to whether the child needs an inpatient assessment or inpatient psychiatric acute care services and whether an inpatient assessment or inpatient psychiatric acute care services are the least restrictive available alternative.

6. "Physician" means a person who is licensed pursuant to title 32, chapter 13 or 17.

7. "Psychiatric acute care facility" or "inpatient assessment facility" means a facility that is licensed by the department of health services as a level one behavioral health facility and that provides psychiatric acute care services.

8. "Psychiatric acute care services" means any of the following:

(a) Emergency or crisis behavioral health services.

(b) Psychiatric and psychological assessments and short-term intensive behavioral health counseling and treatment for acute episodes or mental disorders.

(c) Medication stabilization and twenty-four hour a day nursing care for a child who suffers from acute psychiatric or mental disorders or who needs to have a chronic mental illness stabilized.

9. "Psychiatrist" means a person who is licensed pursuant to title 32, chapter 13 or 17.

10. "Psychologist" means a person who is licensed pursuant to title 32, chapter 19.1.

11. "Residential treatment services" means services, other than psychiatric acute care services, that are provided by a level one behavioral health facility.

Sec. 5. Section 8-272, Arizona Revised Statutes, is amended to read:

8-272. <u>Psychiatric acute care services; outpatient and inpatient assessments; definition</u>

A. If a child exhibits behavior that indicates the child may suffer from a mental disorder or is a danger to self or others, an entity may

request that the child receive an outpatient assessment or inpatient assessment.

B. A psychologist, psychiatrist or physician shall conduct an outpatient assessment at a time and place that is convenient for the psychologist, psychiatrist or physician and the child. At the conclusion of the outpatient assessment, the psychologist, psychiatrist or physician shall recommend that the child be either:

1. Provided with outpatient treatment services.

2. Admitted to a psychiatric acute care facility for inpatient assessment or inpatient psychiatric acute care services.

3. Provided with residential treatment services.

4. Discharged to the entity without further psychological or psychiatric services because the child does not suffer from a mental disorder, is not a danger to self or others or is not ~~persistently or acutely disabled or gravely disabled~~ A CHILD WITH A PERSISTENT OR ACUTE DISABILITY OR GRAVE DISABILITY.

C. A psychologist, psychiatrist or physician shall conduct an inpatient assessment within seventy-two hours after a child is admitted to an inpatient assessment facility, excluding weekends and holidays. At the conclusion of the inpatient assessment, the psychologist, psychiatrist or physician shall recommend that the child be either:

1. Admitted to a psychiatric acute care facility for inpatient psychiatric acute care services.

2. Discharged to an entity and provided with outpatient treatment services.

3. Provided with residential treatment services.

4. Discharged to the entity without further psychological or psychiatric services because the child does not suffer from a mental disorder, is not a danger to self or others or is not ~~persistently or acutely disabled or gravely disabled~~ A CHILD WITH A PERSISTENT OR ACUTE DISABILITY OR GRAVE DISABILITY.

D. Within twenty-four hours after a child is admitted for an inpatient assessment, excluding weekends and holidays, the entity shall file a motion for approval of admission for inpatient assessment with the juvenile court. The motion shall include all of the following:

1. The name and address of the inpatient assessment facility.

2. The name of the psychologist, psychiatrist or physician who is likely to perform the inpatient assessment.

3. The date and time the child was admitted to the inpatient assessment facility.

4. A short statement explaining why the child needs an inpatient assessment.

E. An entity that files a motion under subsection D of this section shall provide a copy of the motion to all of the parties and their attorneys. The court shall rule on the motion without response from any party, except

that any party may request a hearing to review the child's admission for an inpatient assessment. If the court grants a hearing, the court shall set the hearing on an accelerated basis.

F. If the psychologist, psychiatrist or physician who performed the outpatient assessment or inpatient assessment of the child recommends that the child receive inpatient acute care psychiatric services, the entity may file a motion for inpatient psychiatric acute care services with the juvenile court. If the psychologist, psychiatrist or physician makes this recommendation after conducting an inpatient assessment, the entity shall file the motion for inpatient psychiatric acute care services within twenty-four hours after the completion of the inpatient assessment, excluding weekends and holidays. The motion shall include all of the following:

1. A copy of the written report of the results of the inpatient assessment or outpatient assessment, including:

(a) The reason why inpatient psychiatric acute care services are in the child's best interests.

(b) The reason why inpatient psychiatric acute care services are the least restrictive available treatment.

(c) A diagnosis of the child's condition that requires inpatient psychiatric acute care services.

(d) The estimated length of time that the child will require inpatient psychiatric acute care services.

2. A written statement from the medical director of the proposed inpatient psychiatric acute care facility or the medical director's designee that the facility's services are appropriate to meet the child's mental health needs.

G. As soon as practicable after the filing of a motion under subsection D or F of this section, the court shall appoint an attorney for the child if an attorney has not been previously appointed. The court may also appoint a guardian ad litem for the child.

H. If a motion is filed pursuant to subsection F of this section, the court shall hold a hearing on the motion within seventy-two hours after the motion is filed, excluding weekends and holidays. If the child has been admitted for an inpatient assessment, the child may remain at the inpatient assessment facility until the court rules on the motion.

I. If a child is admitted for an inpatient assessment and an entity fails to file a motion pursuant to and within the time limit prescribed in subsection F of this section, the child shall be discharged from the inpatient assessment facility.

J. If the court approves the admission of the child for inpatient psychiatric acute care services, the court shall find by clear and convincing evidence that both:

1. The child is suffering from a mental disorder or is a danger to self or others and requires inpatient psychiatric acute care services.

2. Available alternatives to inpatient psychiatric acute care services were considered, but that inpatient psychiatric acute care services are the least restrictive available alternative.

K. The court shall review the child's continuing need for inpatient psychiatric acute care services at least every sixty days after the date of the treatment order. The inpatient psychiatric acute care facility shall submit a progress report to the court at least five days before the review and shall provide copies of the progress report to all of the parties, including the child's attorney and guardian ad litem. On its own motion or on the motion of a party, the court may hold a hearing on the child's continuing need for inpatient psychiatric acute care services. If requested by the child, the court shall hold a hearing unless the court has held a review hearing within sixty days before the child's request. If requested by the child, the court may hold a hearing at any time for good cause shown. The progress report shall make recommendations and shall include at least the following:

1. The nature of the treatment provided, including any medications and the child's current diagnosis.

2. The child's need for continued inpatient psychiatric acute care services, including the estimated length of the services.

3. A projected discharge date.

4. The level of care required by the child and the potential placement options that are available to the child on discharge.

5. A statement from the medical director of the inpatient psychiatric acute care facility or the medical director's designee as to whether inpatient psychiatric acute care services are necessary to meet the child's mental health needs and whether the facility that is providing the inpatient psychiatric acute care services to the child is the least restrictive available alternative.

L. If a child is transferred from an inpatient psychiatric acute care facility to another inpatient psychiatric acute care facility, no new inpatient assessment or outpatient assessment is required. Unless the court orders otherwise due to an emergency, an entity shall file a notice of transfer with the juvenile court at least five days before the transfer of the child. The notice shall include all of the following:

1. The name and address of the facility to which the child is being transferred and the date of the transfer.

2. A statement from the medical director of the receiving inpatient psychiatric acute care facility or the medical director's designee that the receiving facility is an appropriate facility to meet the child's mental health needs and that it is the least restrictive available alternative.

3. A statement that the entity has contacted the child's attorney or guardian ad litem and whether the child or the child's attorney or guardian ad litem opposes the transfer.

M. Any party may request a hearing to review the transfer of a child to another inpatient psychiatric acute care facility pursuant to subsection L of this section.

N. Within fifteen days after a child is discharged, the inpatient psychiatric acute care facility shall prepare a discharge summary. Within twenty days after a child is discharged, an entity shall file a notice of discharge with the juvenile court. The notice shall include:

1. A statement of the child's current placement.

2. A statement of the mental health services that are being provided to the child and the child's family.

3. A copy of the discharge summary that is prepared by a mental health professional.

O. When possible, the child's attorney shall communicate with the child within twenty-four hours after a motion is filed pursuant to subsection D or F of this section, excluding weekends and holidays. The child's attorney shall discuss treatment recommendations and shall advise the child of the child's right to request a hearing. The child's attorney or designee shall attend all court hearings related to the child's inpatient assessment or inpatient psychiatric acute care services and shall be prepared to report to the court the child's position on any recommended assessments or treatment. The child may attend any hearing unless the court finds by a preponderance of the evidence that allowing the child to attend would not be in the child's best interests.

P. If the child is a dually adjudicated child, the entity that requests an order for inpatient psychiatric acute care services shall notify any other entity of all notices, motions, hearings or other proceedings related to the provision of inpatient psychiatric acute care services. Any entity may attend and participate in all hearings or other proceedings relating to the provision of inpatient psychiatric acute care services to a dually adjudicated child.

Q. Section 8-273 applies if residential treatment services are recommended after an inpatient assessment or outpatient assessment or any inpatient psychiatric acute care treatment. Section 8-341.01 applies if a child who is adjudicated delinquent or incorrigible and who is subject to the jurisdiction of the juvenile court requires residential treatment services. Section 41-2815 applies if a child who is committed to the department of juvenile corrections requires residential treatment services.

R. Information and records that are obtained or created in the course of any assessment, examination or treatment are subject to the confidentiality requirements of section 36-509, except that information and records may be provided to the department of juvenile corrections pursuant to section 8-341.

S. For the purposes of this section, "child" means a person who is under eighteen years of age and who is either:

1. Found to be dependent or temporarily subject to court jurisdiction pending an adjudication of a dependency petition.

2. In the temporary custody of child protective services pursuant to section 8-821.

3. Detained in a juvenile court detention facility.

4. Committed to the department of juvenile corrections.

Sec. 6. Section 8-503, Arizona Revised Statutes, is amended to read:

8-503. Powers and duties

A. The division shall:

1. Exercise supervision over all child welfare agencies.

2. Advise and cooperate with the governing boards of all child welfare agencies.

3. Assist the staffs of all child welfare agencies by giving advice on progressive methods and procedures of child care and improvement of services.

4. Establish rules, regulations, and standards for:

(a) Licensing of child welfare agencies.

(b) Licensing of foster homes.

(c) Classifications of foster homes as:

(i) Receiving foster homes.

(ii) Regular foster homes.

(iii) Special classes of foster homes as are needed according to the types of problems involved.

(iv) Group foster homes.

(d) Certifying each foster home according to one or more of the categories prescribed in subdivision (c) of this paragraph.

(e) Initial and ongoing foster parent training programs.

(f) The method of approving foster parent training programs.

(g) Uniform amounts of payment for all foster homes according to certification. However, variations in uniform amounts of payments may be allowed for foster homes based on consideration of geographical location or age or mental or physical condition of a foster child.

(h) Renewal of licenses of child welfare agencies and foster homes.

(i) Form and content of investigations, reports and studies concerning disposition of children and foster home placement.

5. Establish a program of counseling and rehabilitation of parents whose children have been placed in foster homes.

6. Establish foster parent training programs or contract with other agencies, institutions or groups for the provision of such programs to foster parents. Foster parent training programs shall be established in at least the following areas:

(a) Initial and ongoing training as a foster parent for a regular or group foster home.

(b) Initial and ongoing training as a foster parent for a special foster home.

7. Regulate the importation and exportation of children.

8. In conjunction with the department of education and the department of JUVENILE corrections, develop and implement a uniform budget format to be submitted by licensed child welfare agencies. The budget format shall be developed in such a manner that, at a minimum, residential and educational instructional costs are separate and distinct budgetary items.

9. Beginning October 1, 1983, establish as a goal that, at any given time, not more than fifty per cent of the total number of children whose maintenance is subsidized by title IV, part E of the social security act, as amended, shall be in foster care in excess of twenty-four consecutive months. The division shall establish through regulations appropriate procedures to achieve the goal.

B. Except as provided in section 8-514.01, large group settings for children, group homes for children and child developmental foster homes which have one or more residents who are ~~developmentally disabled~~ clients of the department WITH DEVELOPMENTAL DISABILITIES shall be licensed pursuant to title 36, chapter 5.1, article 3. Rules, regulations and standards adopted pursuant to subsection A, paragraph 4 of this section shall not apply to group homes for children or child developmental foster homes licensed pursuant to title 36, chapter 5.1, article 3.

Sec. 7. Section 8-514, Arizona Revised Statutes, is amended to read:

8-514. Placement in foster homes

A. Subject to the provisions of section 8-514.01, the division or a licensed child welfare agency if so authorized in its license may place a child in a licensed foster home for care or for adoption. Notwithstanding any law to the contrary, the division or a licensed child welfare agency may place a child in excess of the number of children allowed and identified in a foster parent's license if the division or agency reasonably believes the foster home has the ability to safely handle additional children and if there are no outstanding concerns, deficiencies, reports or investigations known by the division regarding the foster home, and if the child meets any of the following criteria:

1. The child is part of a sibling group that currently resides in the foster home.

2. The child is part of a sibling group that is being considered for placement in a foster home but because of the maximum child limit would otherwise have to be separated.

3. The child previously resided in the foster home.

4. The child is a kinship placement for the foster home.

B. The department shall place a child in the least restrictive type of placement available, consistent with the needs of the child. The order for placement preference is as follows:

1. With a parent.

2. With a grandparent.

3. In kinship care with another member of the child's extended family, including a person who has a significant relationship with the child.

4. In licensed family foster care.
5. In therapeutic foster care.
6. In a group home.
7. In a residential treatment facility.

C. Notwithstanding subsection B of this section, the order for placement preference of a native American child is as follows:

1. With a member of the child's extended family.
2. In a licensed family foster home approved or specified by the child's tribe.
3. In an Indian foster home licensed or approved by an authorized non-Indian licensing authority.
4. In an institution approved by the Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs pursuant to 25 United States Code chapter 21.

D. At the time of placement there shall be presented to the foster parents, by the agency or division placing the child, a written summary of known, unprivileged information regarding the child, including but not limited to:

1. Demographic information.
2. Type of custody and previous placement.
3. Pertinent family information including but not limited to the names of family members who, by court order, may not visit the child.
4. Known or available medical history including but not limited to:
(a) Allergies.
(b) Immunizations.
(c) Childhood diseases.
(d) Physical ~~handicaps~~ DISABILITIES.
(e) Other idiosyncrasies.
(f) The child's last doctor, if known.
5. A summary of the child's history of adjudication on acts of delinquency, as may be public record and available in the file of the clerk of the superior court.

E. The responsibility of the agency or the division for a child placed in a foster home shall be defined in writing and accepted by the person receiving the child. The agency or division shall make available to the foster parents a method of acquiring emergency information that may be necessary to deal with situations that may arise pursuant to their responsibilities as foster parents.

F. Every foster home shall maintain a record of the children received, which shall include facts in regard to the children and their care and shall be in the form and kept in the manner prescribed by the division.

Sec. 8. Section 8-514.01, Arizona Revised Statutes, is amended to read:

8-514.01. Placement of children with developmental disabilities

All foster placements of ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES made by the division shall be made to child developmental foster homes for ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES operated or licensed by the department pursuant to title 36, chapter 5.1, article 3 which provide specialized programs for ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES, except that placements of ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES to other types of foster homes licensed pursuant to this article may be made, when the division determines that such placement is in the best interests of the child.

Sec. 9. Section 8-530, Arizona Revised Statutes, is amended to read:

8-530. Foster parents; rights

A. A foster parent in this state has the following rights:

1. To be treated with consideration and respect for the foster parent's personal dignity and privacy.

2. To be included as a valued member of the team that provides services to the foster child.

3. To receive support services that assist the foster parent to care for the child in the foster home, including open and timely responses from agency personnel.

4. To be informed of all information regarding the child that will impact the foster home or family life during the care of the foster child.

5. To contribute to the permanency plan for the child in the foster home.

6. To have placement information kept confidential when it is necessary to protect the foster parent and the members of the foster parent's household.

7. To be assisted in dealing with family loss and separation when a child leaves the foster home.

8. To be informed of all agency policies and procedures that relate to the foster parent's role as a foster parent.

9. To receive training that will enhance the foster parent's skills and ability to cope as a foster parent.

10. To be able to receive services and reach personnel on a twenty-four hour, seven days per week basis.

11. To be granted a reasonable plan for respite from the role of foster parent.

12. To confidentiality regarding issues that arise in the foster home.

13. To not be discriminated against on the basis of religion, race, color, creed, sex, national origin, age or physical ~~handicap~~ DISABILITY.

14. To receive an evaluation on the foster parent's performance.

B. This section does not establish any legally enforceable right or cause of action on behalf of any person.

Sec. 10. Section 8-701, Arizona Revised Statutes, is amended to read:

8-701. Healthy families program; administration; consent; access to records

A. The healthy families program is established in the department of economic security. The program shall provide services to children under five years of age and members of their families that are designed to prevent child abuse or neglect and to promote child development and wellness. The program also may provide these services to pregnant women and their families.

B. The department shall:

1. Develop standardized program eligibility criteria to be used for identifying families in greatest need of program services.

2. Develop the following program functions:

(a) Comprehensive standardized risk assessment evaluation for newborns and their families.

(b) A method to identify families that have the greatest need for program services. The department shall establish a method of disclosing to parents at the time of their admission to a hospital for childbirth that they may be contacted regarding program services.

(c) Outreach services that are conducted primarily through prescheduled home visits.

3. Establish methods that assist program participants to reduce illiteracy, reduce dependency on welfare, encourage employment, encourage self-sufficiency and encourage community involvement by program participants through community service, employment or participation in religious or social organizations.

4. Develop employment guidelines for program personnel that include background checks for those personnel who will have direct contact with pregnant women or families or who will have access to program participant records. Employment guidelines shall include skill development in child abuse and neglect detection and in the collection of relevant program data.

5. Track program costs.

6. Offer parents education on prenatal care.

7. Offer participants education on successful marriage.

8. Establish guidelines for requiring program participants to engage in community service activities in exchange for benefits received from the program. Participants shall be allowed to choose from a variety of community and faith-based service providers that are under contract with the department to provide community service opportunities or program services. Participants shall be allowed and encouraged to engage in community services within their own communities. Participants shall be allowed to fulfill the requirements of this paragraph by providing community services to the program from which they received services.

C. The goals of the healthy families program include:

1. Reducing child abuse and neglect.
2. Promoting child wellness and proper development.
3. Strengthening family relations.
4. Promoting family unity.
5. Reducing dependency on drugs and alcohol.

D. The healthy families program shall provide the following services to program participants:

1. Informal counseling or emotional support services.
2. Assistance in developing parenting and coping skills.
3. Education on the importance of good nutritional habits to improve the overall health of their children.
4. Education on developmental assessments so that early identification of any learning disabilities, physical ~~handicaps~~ DISABILITIES or behavioral health needs are determined.
5. Education on the importance of preventative health care and the need for screening examinations such as hearing and vision.
6. Assistance and encouragement to provide age appropriate immunizations so that their children are immunized.
7. Assistance and encouragement to access comprehensive private and public preschool and other school readiness programs.
8. Assistance in applying for private and public financial assistance including employment services.
9. Assistance in accessing other applicable community and public services including employment services.

E. Program participants shall be provided with the Arizona children and families resource directory compiled under section 36-698 in order to help them answer questions concerning early childhood development.

F. Program services shall not be provided under this section unless:

1. Participation in the program is initiated in response to a request by the potential program participant.
2. A verbal explanation of the program is provided to program participants, including an explanation of the rights and responsibilities of both the participant and the program provider.
3. The written, informed consent of the program participants is received. The consent form shall include at least a clear description of the program, including the activities and information to be provided by the program during prescheduled home visits, the number of expected home visits, the right of program participants to terminate participation in the program at any time, any responsibilities of the program participants, a statement that a record will be made and maintained of the home visits and may be available in future court proceedings and any other information that is necessary to convey to the program participants a clear understanding of the program.

G. The initial contact may be in person and at any convenient location, except that if the contact occurs at the primary residence of the

potential program participant, the program personnel shall not enter the residence during the initial contact without the permission of the potential program participant.

H. If the potential program participant is a minor living with the minor's parent or guardian, home visits shall not be provided under this section without the additional written consent of the parent or guardian.

I. If any home visits are to be made by program personnel who are required to report suspected abused or neglected children pursuant to title 13, chapter 36, the consent form shall also contain a clear and conspicuous statement informing parents that the home visits will be made by a person who is required to report any instances of suspected abuse or neglect of children to child protective services in the department of economic security or its successor.

J. Program participants have access to the records on their own family at all times and have the right to correct any inaccurate information included in the records. Records shall be retained for at least five years after the participants' last involvement in the program. Program records are not available to other government agencies or programs in the department without specific prior written consent by the program participant for the release of information in the program participant's records. Program personnel shall not wilfully include defamatory information or maliciously include derogatory information in the records. Program participants have a right of action against any program personnel for the knowing or reckless inclusion of defamatory information in the records.

K. This section does not prohibit a person from satisfying the reporting requirements of section 13-3620 or from complying with a court order to produce records.

Sec. 11. Section 8-806, Arizona Revised Statutes, is amended to read:

8-806. <u>Voluntary placement; conditions; notice of placement; time limit; rules</u>

A. A child is eligible to be accepted into voluntary placement by a protective services worker on behalf of the department.

B. On acceptance of a child into voluntary placement, the worker must prepare a notice of placement and file the notice in the case file of the child.

C. A period of voluntary placement pursuant to this section shall not exceed ninety days. A worker shall not accept a child into voluntary placement for more than two periods within twenty-four consecutive months unless a dependency petition is pending.

D. The department may accept a voluntary placement agreement only if the department can provide necessary services that are likely to remedy the circumstances that bring the child into care within the ninety day period and one of the following applies:

1. The department plans to return the child to the parent, guardian or custodian who signed the child into voluntary placement.

2. While the child is in voluntary placement, the parent, guardian or custodian arranges a safe alternative placement for the child after the voluntary placement.

E. A worker shall not accept a child into voluntary placement without the written informed consent of the child's parent, guardian or custodian. The department shall terminate voluntary placement on receipt of written revocation of consent by the parent, guardian or custodian.

F. A worker shall not accept a child, age twelve or older and not ~~developmentally disabled~~ WITH A DEVELOPMENTAL DISABILITY, into voluntary placement without the written informed consent of the child unless the department determines that voluntary placement of the child is clearly necessary to prevent abuse.

G. The fact of voluntary placement does not constitute abandonment, abuse or dependency as defined in this article and may not be used in a judicial proceeding as an admission of criminal wrongdoing by that parent, guardian or custodian.

H. The department shall adopt rules in accordance with title 41, chapter 6 for the purpose of assessing parents for the full or partial cost of voluntary placement.

I. The department must develop a case plan with the child's parent, guardian or custodian within ten days of a child's voluntary placement as follows:

1. The case plan shall establish the services necessary to promote the safety of the child on the planned return of the child to the parent, guardian, custodian or alternative placement.

2. The department shall provide, contract with a service provider to provide or assist in accessing community resources to provide the services in the case plan.

3. The department must share the case plan with the foster parent, physical custodian or other voluntary placement provider of the child.

J. Before returning the child to a parent, guardian, custodian or alternative placement, the department shall inform the parent, guardian, custodian or alternative placement about available financial and nonfinancial services and eligibility requirements and shall assist the parent, guardian, custodian or alternative placement to complete the necessary applications.

Sec. 12. Section 11-251, Arizona Revised Statutes, is amended to read:

11-251. Powers of board

The board of supervisors, under such limitations and restrictions as are prescribed by law, may:

1. Supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing the public revenues, see that such officers faithfully perform their duties and direct prosecutions for delinquencies, and, when necessary, require the officers to renew their

official bonds, make reports and present their books and accounts for inspection.

2. Divide the counties into such districts or precincts as required by law, change them and create others as convenience requires.

3. Establish, abolish and change election precincts, appoint inspectors and judges of elections, canvass election returns, declare the result and issue certificates thereof.

4. Lay out, maintain, control and manage public roads, ferries and bridges within the county and levy such tax for that purpose as may be authorized by law.

5. Provide for the care and maintenance of the sick of the county, erect and maintain hospitals for that purpose and, in its discretion, provide a farm in connection with the county hospital and adopt ordinances for working the farm.

6. Provide suitable rooms for county purposes.

7. Purchase, receive by donation or lease real or personal property necessary for the use of the county prison and take care of, manage and control the property, but no purchase of real property shall be made unless the value has been previously estimated by three disinterested citizens of the county, appointed by the board for that purpose, and no more than the appraised value shall be paid for the property.

8. Cause to be erected and furnished a courthouse, jail and hospital and such other buildings as necessary, and construct and establish a branch jail, when necessary, at a point distant from the county seat.

9. Sell at public auction, after thirty days' previous notice given by publication in a newspaper of the county, stating the time and place of the auction, and convey to the highest bidder, for cash or contract of purchase extending not more than ten years from the date of sale and on such terms and for such consideration as the board shall prescribe, any property belonging to the county that the board deems advantageous for the county to sell, or that the board deems unnecessary for use by the county, and shall pay the proceeds thereof into the county treasury for use of the county, except that personal property need not be sold but may be used as a trade-in on the purchase of personal property when the board deems this disposition of the personal property to be in the best interests of the county. When the property for sale is real property, the board shall have such property appraised by a qualified independent fee appraiser who has an office located in this state. The appraiser shall establish a minimum price, which shall not be less than ninety per cent of the appraised value. The notice regarding the sale of real property shall be published in the county where the property is situated and may be published in one or more other counties, and shall contain, among other things, the appraised value, the minimum acceptable sale price, and the common and legal description of the real property. Notwithstanding the requirement for a sale at public auction prescribed in this paragraph, a county, with unanimous consent of the board

and without a public auction, may sell or lease any county property to any other duly constituted governmental entity, including the state, cities, towns and other counties. A county, with unanimous consent of the board and without public auction, may grant an easement on county property for public purposes to a utility as defined in section 40-491. A county, with unanimous consent of the board and without public auction, may sell or lease any county property for a specific use to any solely charitable, social or benevolent nonprofit organization incorporated or operating in this state. A county may dispose of surplus equipment and materials that have little or no value or that are unauctionable in any manner authorized by the board.

10. Examine and exhibit the accounts and performance of all officers having the care, management, collection or disbursement of monies belonging to the county or appropriated by law or otherwise for the use and benefit of the county. The working papers and other audit files in an examination and audit of the accounts and performance of a county officer are not public records and are exempt from title 39, chapter 1. The information contained in the working papers and audit files prepared pursuant to a specific examination or audit is not subject to disclosure, except to the county attorney and the attorney general in connection with an investigation or action taken in the course of their official duties.

11. Examine, settle and allow all accounts legally chargeable against the county, order warrants to be drawn on the county treasurer for that purpose and provide for issuing the warrants.

12. Levy such tax annually on the taxable property of the county as may be necessary to defray the general current expenses thereof, including salaries otherwise unprovided for, and levy such other taxes as are required to be levied by law.

13. Equalize assessments.

14. Direct and control the prosecution and defense of all actions to which the county is a party, and compromise them.

15. Insure the county buildings in the name of and for the benefit of the county.

16. Fill by appointment all vacancies occurring in county or precinct offices.

17. Adopt provisions necessary to preserve the health of the county, and provide for the expenses thereof.

18. With the approval of the department of health services, contract with any qualified person to provide all or part of the health services, funded through the department of health services with federal or state monies, that the board in its discretion extends to residents of the county.

19. Contract for county printing and advertising, and provide books and stationery for county officers.

20. Provide for rebinding county records, or, if necessary, the transcribing of county records.

21. Make and enforce necessary rules and regulations for the government of its body, the preservation of order and the transaction of business.

22. Adopt a seal for the board, a description and impression of which shall be filed by the clerk in the office of the county recorder and the secretary of state.

23. Establish, maintain and conduct or aid in establishing, maintaining and conducting public aviation fields, purchase, receive by donation or lease any property necessary for that purpose, lease, at a nominal rental if desired, sell such aviation fields or property to the United States or any department, or sell or lease such aviation fields to a city, exchange lands acquired pursuant to this section for other lands, or act in conjunction with the United States in maintaining, managing and conducting all such property. If any such property or part of that property is not needed for these purposes, it shall be sold by the board and the proceeds shall be paid into the general fund of the county.

24. Acquire and hold property for the use of county fairs, and conduct, take care of and manage them.

25. Authorize the sheriff to offer a reward, not exceeding ten thousand dollars in one case, for information leading to the arrest and conviction of persons charged with crime.

26. Contract for the transportation of insane persons to the state hospital or direct the sheriff to transport such persons. The county is responsible for such expense to the extent the expense is not covered by any third party payor.

27. Provide for the reasonable expenses of burial for deceased indigents as provided in section 36-831 and maintain a permanent register of deceased indigents, including name, age and date of death, and when burial occurs, the board shall mark the grave with a permanent marker giving the name, age, and date of birth, if known.

28. Sell or grant to the United States the title or interest of the county in any toll road or toll train in or partly within a national park, on such terms as may be agreed on by the board and the secretary of the interior of the United States.

29. Enter into agreements for acquiring rights-of-way, construction, reconstruction or maintenance of highways in their respective counties, including highways that pass through Indian reservations, with the government of the United States, acting through its duly authorized officers or agents pursuant to any act of Congress, except that the governing body of any Indian tribe whose lands are affected must consent to the use of its land, and any such agreements entered into before June 26, 1952 are validated and confirmed.

30. Do and perform all other acts and things necessary to the full discharge of its duties as the legislative authority of the county government, including receiving and accepting payment of monies by credit card or debit card, or both. Any fees or costs incurred by the use of the

credit or debit card shall be paid by the person tendering payment unless the charging entity determines that the financial benefits of accepting credit cards or debit cards exceeds the additional processing fees.

31. Make and enforce all local, police, sanitary and other regulations not in conflict with general law.

32. Budget for funds for foster home care during the school week for children with intellectual disabilities and ~~otherwise handicapped~~ children WITH OTHER DISABILITIES who reside within the county and attend a school for ~~the handicapped~~ STUDENTS WITH DISABILITIES in a city or town within such county.

33. Do and perform all acts necessary to enable the county to participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat. 508), as amended.

34. Provide a plan or plans for its employees that provide tax deferred annuity and deferred compensation plans as authorized pursuant to title 26, United States Code. Such plans shall allow voluntary participation by all employees of the county. Participating employees shall authorize the board to make reductions in their remuneration as provided in an executed deferred compensation agreement.

35. Adopt and enforce standards for shielding and filtration of commercial or public outdoor portable or permanent light fixtures in proximity to astronomical or meteorological laboratories.

36. Subject to the prohibitions, restrictions and limitations as set forth in section 11-812, adopt and enforce standards for excavation, landfill and grading to prevent unnecessary loss from erosion, flooding and landslides.

37. Make and enforce necessary ordinances for the operation and licensing of any establishment not in the limits of an incorporated city or town in which is carried on the business of providing baths, showers or other forms of hydrotherapy or any service of manual massage of the human body.

38. Provide pecuniary compensation as salary or wages for overtime work performed by county employees, including those employees covered by title 23, chapter 2, article 9. In so providing, the board may establish salary and wage plans incorporating classifications and conditions prescribed by the federal fair labor standards act.

39. Establish, maintain and operate facilities that provide for physical evaluation, diagnosis and treatment of patients and that do not keep patients overnight as bed patients or treat patients under general anesthesia.

40. Enact ordinances under its police authority prescribing reasonable curfews in the entire unincorporated area or any area less than the entire unincorporated area of the county for minors and fines not to exceed the fine for a petty offense for violation of such ordinances. Nothing in this paragraph shall be construed to require a request from an association or a majority of the residents of an area before the board may enact an ordinance

applicable to the entire or any portion of the unincorporated area. An ordinance enacted pursuant to this paragraph shall provide that a minor is not violating a curfew if the minor is accompanied by a parent, a guardian or an adult having supervisorial custody, is on an emergency errand or has been specifically directed to the location on reasonable, legitimate business or some other activity by the parent, guardian or adult having supervisorial custody. If no curfew ordinance is applicable to a particular unincorporated area of the county, the board may adopt a curfew ordinance on the request or petition of either:

(a) A homeowners' association that represents a majority of the homeowners in the area covered by the association and to which the curfew would apply.

(b) A majority of the residents of the area to which the curfew would apply.

41. Lease or sublease personal property owned by the county to other political subdivisions of this state to be used for a public purpose.

42. In addition to the agreements authorized by section 11-651, enter into long-term agreements for the purchase of personal property, provided that the board may cancel any such agreement at the end of a fiscal year, at which time the seller may repossess the property and the agreement shall be deemed terminated.

43. Make and enforce necessary ordinances not in conflict with the laws of this state to regulate off-road recreational motor vehicles that are operated within the county on public lands without lawful authority or on private lands without the consent of the lawful owner or that generate air pollution. For the purposes of this paragraph, "off-road recreational motor vehicle" means three and four wheel vehicles manufactured for recreational nonhighway all terrain travel.

44. Acquire land for roads, drainage ways and other public purposes by exchange without public auction, except that notice shall be published thirty days before the exchange, listing the property ownership and descriptions.

45. Purchase real property for public purposes, provided that final payment shall be made not later than five years after the date of purchase.

46. Lease-purchase real property and improvements for real property for public purposes, provided that final payment shall be made not later than twenty-five years after the date of purchase. Any increase in the final payment date from fifteen years up to the maximum of twenty-five years shall be made only on unanimous approval by the board of supervisors.

47. Make and enforce ordinances for the protection and disposition of domestic animals subject to inhumane, unhealthful or dangerous conditions or circumstances provided that nothing in this paragraph limits or restricts the authority granted to incorporated cities and towns or counties pursuant to section 13-2910. An ordinance enacted pursuant to this paragraph shall not restrict or limit the authority of the game and fish commission to regulate the taking of wildlife. For the purposes of this paragraph, "domestic

animal" means an animal kept as a pet and not primarily for economic purposes.

48. If a part of a parcel of land is to be taken for roads, drainage, flood control or other public purposes and the board and the affected property owner determine that the remainder will be left in such a condition as to give rise to a claim or litigation concerning severance or other damage, acquire the whole parcel by purchase, donation, dedication, exchange, condemnation or other lawful means, and the remainder may be sold or exchanged for other properties needed for any public purpose.

49. Make and enforce necessary rules providing for the reimbursement of travel and subsistence expenses of members of county boards, commissions and advisory committees when acting in the performance of their duties, if the board, commission or advisory committee is authorized or required by federal or state law or county ordinance, and the members serve without compensation.

50. Provide a plan or plans for county employee benefits that allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

51. Provide for fringe benefits for county employees, including sick leave, personal leave, vacation and holiday pay and jury duty pay.

52. Make and enforce ordinances that are more restrictive than state requirements to reduce or encourage the reduction of carbon monoxide and ozone levels, provided an ordinance does not establish a standard for vehicular emissions, including ordinances to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the county and employees whose place of employment is in unincorporated areas of the county.

53. Make and enforce ordinances to provide for the reimbursement of up to one hundred per cent of the cost to county employees of public bus or van pool transportation to and from their place of employment.

54. Lease for public purposes any real property, improvements for real property and personal property under the same terms and conditions, to the extent applicable, as are specified in sections 11-651 and 11-653 for lease-purchases.

55. Enact ordinances prescribing regulation of alarm systems and providing for civil penalties to reduce the incidence of false alarms at business and residential structures relating to burglary, robbery, fire and other emergencies not within the limits of an incorporated city or town.

56. In addition to paragraph 9 of this section, and notwithstanding section 23-504, sell or dispose of, at no less than fair market value, county personal property that the board deems no longer useful or necessary through a retail outlet or to another government entity if the personal property has a fair market value of no more than one thousand dollars, or by retail sale or private bid, if the personal property has a fair market value of no more than fifteen thousand dollars. Notice of sales in excess of one thousand dollars shall include a description and sale price of each item and shall be

published in a newspaper of general circulation in the county, and for thirty days after notice other bids may be submitted that exceed the sale price by at least five per cent. The county shall select the highest bid received at the end of the thirty day period.

57. Sell services, souvenirs, sundry items or informational publications that are uniquely prepared for use by the public and by employees and license and sell information systems and intellectual property developed from county resources that the county is not obligated to provide as a public record.

58. On unanimous consent of the board of supervisors, license, lease or sell any county property pursuant to paragraphs 56 and 57 of this section at less than fair market value to any other governmental entity, including this state, cities, towns, public improvement districts or other counties within or outside of this state, or for a specific purpose to any charitable, social or benevolent nonprofit organization incorporated or operating in this state.

59. On unanimous consent of the board of supervisors, provide technical assistance and related services to a fire district pursuant to an intergovernmental agreement.

60. Adopt contracting procedures for the operation of a county health system pursuant to section 11-291. Before the adoption of contracting procedures the board shall hold a public hearing. The board shall publish one notification in a newspaper of general circulation in the county seat at least fifteen days before the hearing.

61. Enter into an intergovernmental agreement pursuant to chapter 7, article 3 of this title for a city or town to provide emergency fire or emergency medical services pursuant to section 9-500.23 to a county island as defined in section 11-251.12. The board may charge the owners of record in the county island a fee to cover the cost of an intergovernmental agreement that provides fire and emergency medical services.

62. In counties that employ or have designated an animal control county enforcement agent pursuant to section 11-1005, enter into agreements with foundations or charitable organizations to solicit donations, property or services, excluding enforcement or inspection services, for use by the county enforcement agent solely to perform nonmandated services and to fund capital improvements for county animal control, subject to annual financial and performance audits by an independent party as designated by the county board of supervisors. For the purposes of this paragraph, nonmandated services are limited to low cost spay and neuter services, public education and outreach efforts, pet adoption efforts, care for pets that are victims of cruelty or neglect and support for volunteer programs.

63. Adopt and provide for the enforcement of ordinances prohibiting open fires and campfires on designated lands in the unincorporated areas of the county when a determination of emergency is issued by the county emergency management officer and the board deems it necessary to protect public health and safety on those lands.

64. Fix the amount of license fees to be paid by any person, firm, corporation or association for carrying on any game or amusement business in unincorporated areas of the county and prescribe the method of collection or payment of those fees, for a stated period in advance, and fix penalties for failure to comply by fine. Nothing in this article shall be construed as authorizing any county to require an occupational license or fee for any activity if state law precludes requiring such a license or fee.

65. Adopt and enforce ordinances for the prevention, abatement and removal of graffiti, providing that any restrictions on the retail display of potential graffiti tools be limited to any of the following, as determined by the retail business:

(a) In a place that is in the line of sight of a cashier or in the line of sight from a work station normally continuously occupied during business hours.

(b) In a manner that makes the product accessible to a patron of the business establishment only with the assistance of an employee of the establishment.

(c) In an area electronically protected, or viewed by surveillance equipment that is monitored, during business hours.

66. Adopt ordinances and fees related to the implementation of a local stormwater quality program pursuant to title 49, chapter 2, article 11.

Sec. 13. Section 11-267, Arizona Revised Statutes, is amended to read:

11-267. Services to persons with disabilities and aged individuals

A. Any county may implement programs to provide services to ~~disabled~~ persons WITH DISABILITIES or persons sixty years of age or older, and may contract with federal, state, local or other providers for the provision of these services.

B. As used in this section, "services" may include, but not be limited to, nursing care, sheltered care, day care, home maintenance, housekeeping, transportation and nutrition services.

Sec. 14. Section 11-292, Arizona Revised Statutes, is amended to read:

11-292. Medical care; definition

A. The board of supervisors, subject to the applicable provisions of title 42, chapter 17, articles 2 and 3, shall include in its annual budget an amount equal to fifty per cent of the amount budgeted by the county board of supervisors or the amount expended, whichever is less, for the hospitalization and medical care of the indigent sick pursuant to this article for fiscal year 1980-1981, except for Yuma and La Paz counties. The contribution amounts of those counties shall be equal to the amount Yuma county would have made pursuant to this subsection if a division had not occurred apportioned between the counties. The office of the auditor general shall determine the amount Yuma county would otherwise have included if a division had not occurred and shall then determine the contribution amounts

of Yuma and La Paz counties based on the proportionate share of the estimated population in these counties as of July 1, 1982.

B. For fiscal year 1994-1995, and for each fiscal year thereafter, the state treasurer shall withhold an amount sufficient to meet the county portion of the nonfederal costs of providing long-term care system services, pursuant to title 36, chapter 29, article 2, excluding services to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, from monies otherwise payable to the county under section 42-5029, subsection D, paragraph 2. This amount and the state portion of the nonfederal costs shall be specified in the annual appropriation for the maintenance and operation of the Arizona health care cost containment system. For fiscal years 1994-1995, 1995-1996 and 1996-1997, monies shall be withheld from each county based on the following percentages derived from a state auditor general's certified audit of fiscal year 1987-1988 county long-term care and home health care expenditures, except that amounts withheld shall be adjusted to reflect amounts paid by counties pursuant to section 36-2952:

1.	Apache:	0.22%
2.	Cochise:	2.49%
3.	Coconino:	0.66%
4.	Gila:	2.56%
5.	Graham:	0.64%
6.	Greenlee:	0.34%
7.	La Paz:	0.34%
8.	Maricopa:	56.55%
9.	Mohave:	2.73%
10.	Navajo:	0.91%
11.	Pima:	20.55%
12.	Pinal:	5.09%
13.	Santa Cruz:	1.05%
14.	Yavapai:	3.12%
15.	Yuma:	2.75%

C. In each fiscal year, of the total amount that is specified in the annual appropriation as the nonfederal portion of the cost of providing long-term care services and that portion of the phased-down medicare prescription drug state contribution attributable to the Arizona long-term care system, excluding services and phased-down medicare prescription drug state contribution costs associated with ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, and that represents an increase from the amount that was specified in the annual appropriation for the prior fiscal year, the state shall pay fifty per cent of the increase. The remaining nonfederal portion of the costs shall be apportioned among the counties according to the proportion that each county's net nonfederal expenditures for long-term care services, excluding services to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, bears to the total

nonfederal expenditure for all counties two fiscal years earlier, with the following adjustments in the following order:

1. If the resulting net county contribution when expressed as an imputed property tax rate per one hundred dollars of net assessed value exceeds ninety cents, the county's contribution shall be reduced so that the imputed property tax rate equals ninety cents and the difference shall be paid by the state.

2. Any county with a native American population that represents at least twenty per cent of the county's total population according to the most recent United States decennial census shall contribute an amount equal to the prior fiscal year's contribution plus fifty per cent of the difference between the prior year's contribution were it calculated using the percentage in subsection B of this section and the current year's contribution as if its share of the total nonfederal portion of the long-term care costs had been calculated using the percentage prescribed in subsection B of this section and the state shall pay any difference from the amount otherwise required by this subsection.

3. If, after making the adjustments in this subsection, a county would contribute more than if its contribution were calculated using the percentage prescribed in subsection B of this section multiplied by the total nonfederal costs of long-term care services, excluding services to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, the county's contribution shall be reduced to the sum of its prior year's contribution plus fifty per cent of the difference between the prior year's contribution were it calculated using the percentage in subsection B of this section and the current year's contribution as if its share of the total nonfederal portion of long-term care costs had been calculated using the percentage prescribed in subsection B of this section and the state shall pay any difference from the amount otherwise required by this subsection.

4. After making all of the adjustments in this subsection, a statewide per capita county contribution shall be calculated by summing the contributions for all counties and then dividing the resulting total by the total state population. If an individual county's contribution when expressed as a per capita contribution exceeds the statewide per capita county contribution, the county's contribution shall be reduced so that the county's contribution equals the statewide per capita contribution and the difference shall be paid by the state. For the purposes of this paragraph, "population" means the population estimate approved by the ~~director of the department of economic security~~ OFFICE OF EMPLOYMENT AND POPULATION STATISTICS for the most recent fiscal year.

D. The director of the Arizona health care cost containment system administration shall notify each county of the amount determined pursuant to subsection A of this section to be included in its annual budget no later than May 1 of each year.

E. If a county does not provide funding as specified in subsection A of this section, the state treasurer shall subtract the amount owed to the Arizona health care cost containment system fund by the county from any payments required to be made by the state treasurer to that county pursuant to section 42-5029, subsection D, paragraph 2, plus interest on that amount pursuant to section 44-1201 retroactive to the first day the funding was due. If the monies the state treasurer withholds are insufficient to meet that county's funding requirement as specified in subsection A of this section, the state treasurer shall withhold from any other monies payable to that county from whatever state funding source is available an amount necessary to fulfill that county's requirement. The state treasurer shall not withhold distributions from the highway user revenue fund pursuant to title 28, chapter 18, article 2.

F. Each month payment of an amount equal to one-twelfth of the total amount determined pursuant to subsection A of this section shall be made to the state treasurer. Payment of this amount shall be made to the state treasurer on or before the fifth day of each month. Upon request from the director of the Arizona health care cost containment system administration, the state treasurer shall require that up to three months' payments be made in advance, if necessary.

G. The state treasurer shall deposit the amounts paid pursuant to subsection F of this section and amounts withheld pursuant to subsection E of this section in the Arizona health care cost containment system fund established by section 36-2913.

H. If payments made pursuant to subsection F of this section exceed the amount required to meet the costs incurred by the Arizona health care cost containment system for the hospitalization and medical care of a person who is defined as an eligible person pursuant to section 36-2901, paragraph 6, subdivision (a), the director of the Arizona health care cost containment system administration may instruct the state treasurer either to reduce remaining payments to be paid pursuant to this section by a specified amount or to provide to the counties specified amounts from the Arizona health care cost containment system fund.

I. The amount of the county contribution to the Arizona health care cost containment system fund established by section 36-2913 shall not exceed thirty-three per cent of the amount that the system administration expended in the county for fiscal year 1983-1984. For the purposes of this subsection, system administration expenditures in a county for fiscal year 1983-1984 are the total capitation and fee for service amounts paid by the system administration to providers in a county before February 1, 1986 for services rendered during fiscal year 1983-1984 to persons eligible for the system.

J. The state treasurer shall deposit the monies withheld from the counties and contributed by the state pursuant to subsection B of this section in the long-term care system fund established by section 36-2913, in

twelve equal monthly installments. The monthly installments shall be deposited in the fund by the state treasurer by the fourth working day of each month.

K. By July 1 or within sixty days after enactment of the annual appropriation for the maintenance and operation of the Arizona health care cost containment system, whichever is later, and after consulting with the joint legislative budget committee and the governor's office of strategic planning and budgeting, the state treasurer shall notify each county of the amount to be withheld pursuant to subsection B of this section.

L. If the monies deposited in the long-term care system fund pursuant to subsection J of this section are insufficient to meet the funding requirement as specified in the annual appropriation for the maintenance and operation of the Arizona health care cost containment system pursuant to subsection B of this section, the state treasurer shall withhold from any other monies payable to that county from any available state funding source, other than the highway user revenue fund, the amount required to fulfill fifty per cent of the funding requirement and shall deposit the monies in the long-term care system fund. The state shall pay the remaining fifty per cent of the funding requirement.

M. If any monies in the funds for the purpose of title 36, chapter 29, article 2 remain unexpended at the end of the fiscal year, the director of the Arizona health care cost containment system administration shall specify to the state treasurer the amount to be withdrawn from the long-term care system fund. Of the amount specified, the state treasurer shall distribute fifty per cent to the counties pursuant to subsection B or C of this section. The remaining fifty per cent shall be distributed to the state.

N. The board of supervisors of a county that is a program contractor pursuant to section 36-2940 shall include in its annual budget, subject to title 42, chapter 17, articles 2 and 3, monies received from the Arizona health care cost containment system fund and long-term care system fund for the purposes of title 36, chapter 29, article 2.

O. Notwithstanding any law to the contrary, beginning in fiscal year 2005-2006 and in each fiscal year thereafter, the state treasurer shall withhold a total of two million three hundred ninety-five thousand four hundred dollars for the county contribution for the administrative costs of implementing sections 36-2901.01 and 36-2901.04 beginning with the second monthly distribution of transaction privilege tax revenues otherwise distributable after subtracting any amounts withheld for the county long-term care contribution. Beginning in fiscal year 2006-2007, the state treasurer shall adjust the amount withheld according to the annual changes in the GDP price deflator and as calculated by the joint legislative budget committee staff. Beginning in fiscal year 2006-2007, the joint legislative budget committee shall calculate an additional adjustment of the allocation required by this subsection based on changes in the population as reported by the ~~department of economic security~~ OFFICE OF EMPLOYMENT AND POPULATION

STATISTICS. For the purposes of this subsection, "GDP price deflator" has the same meaning prescribed in section 41-563. Each county's annual contribution is as follows:

1. Apache, 3.296 per cent.
2. Cochise, 6.148 per cent.
3. Coconino, 6.065 per cent.
4. Gila, 2.491 per cent.
5. Graham, 1.7710 per cent.
6. Greenlee, 0.455 per cent.
7. La Paz, 0.9430 per cent.
8. Mohave, 7.079 per cent.
9. Navajo, 4.640 per cent.
10. Pima, 42.168 per cent.
11. Pinal, 8.251 per cent.
12. Santa Cruz, 1.950 per cent.
13. Yavapai, 7.794 per cent.
14. Yuma, 6.949 per cent.

P. The state treasurer shall deposit the amounts paid pursuant to subsection O of this section in the budget neutrality compliance fund established by section 36-2928.

Q. Beginning in fiscal year 2006-2007 for a county that is subject to section 12-269, the county's contributions pursuant to this section shall be reduced by the amount of state aid for probation services that the county would have received in the first fiscal year in which the county does not receive state aid for probation services. Any increase in the county's contributions in subsequent years shall be reduced according to its proportionate share of the base contribution. County contributions shall be reduced in the following priority:

1. First as applied to the contribution provided for in subsection O of this section.
2. Second as applied to the contribution provided for in subsection A of this section or any other contribution for acute care or for the provision of hospitalization and medical care that would otherwise be required.
3. Third as applied to the contribution provided for in subsection C of this section.

R. Beginning in fiscal year 2007-2008 for a county that is subject to section 22-117, subsection D, the county's contributions pursuant to this section shall be reduced by the amount of the state reimbursement that the county would have received in fiscal year 2007-2008 for the salaries of justices of the peace pursuant to section ~~22-217~~ 22-117, subsection B. Any increase in the county's contributions in subsequent years shall be reduced according to its proportionate share of the base contribution. County contributions shall be reduced in the following priority:

1. First as applied to the contribution provided for in subsection O of this section.

2. Second as applied to the contribution provided for in subsection A of this section or any other contribution for acute care or for the provision of hospitalization and medical care that would otherwise be required.

S. For the purposes of this section, "net assessed value" includes the values used to determine voluntary contributions collected pursuant to title 9, chapter 4, article 3 and title 48, chapter 1, article 8.

Sec. 15. Section 11-301, Arizona Revised Statutes, is amended to read:

11-301. Discharge of patient capable of self-support; violation; classification

A. A person admitted to the hospital shall be permitted to remain there so long as he is sick or ~~disabled~~ HAS A DISABILITY or unable to earn a livelihood, and no longer. The contractor or superintendent shall discharge from the hospital every person as soon as he is restored to health and strength sufficient to support himself.

B. A contractor or person having charge of the hospital who knowingly permits a person to remain in the hospital at the expense of the county after he is restored to health and strength is guilty of a class 2 misdemeanor.

Sec. 16. Section 11-424.02, Arizona Revised Statutes, is amended to read:

11-424.02. Receipt of salary by justices of the peace; affidavit; pending and undetermined causes; violation; classification

A. A justice of the peace or a justice of the peace pro tempore shall not receive his salary unless such justice either certifies that no cause before such justice remains pending and undetermined for sixty days after it has been submitted for decision or there is submitted by the chief justice of the Arizona supreme court a certification that such justice of the peace has ~~been physically disabled~~ HAD A PHYSICAL DISABILITY during the preceding sixty days or that good and sufficient cause exists to excuse the application of this section to particularly identified litigation then pending.

B. Any certification submitted by the chief justice pursuant to subsection A shall set forth in detail the nature and duration of the physical disability involved or the reason why subsection A should not apply to the specified pending litigation.

C. Any person who issues or causes to be issued any check, warrant or payment to a justice of the peace or a justice of the peace pro tempore knowing that, pursuant to this section, such justice should not receive his salary is guilty of a class 3 misdemeanor.

Sec. 17. Section 11-1024, Arizona Revised Statutes, is amended to read:

11-1024. Service animals; rights of individuals with disabilities; violation; classification; definitions

A. Any person or entity that operates a public place shall not discriminate against individuals with disabilities who use service animals if the work or tasks performed by the service animal are directly related to the

individual's disability. Work or tasks include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities and helping individuals with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks.

B. It is not discriminatory to exclude a service animal from a public place if one or more of the following apply:

1. The animal poses a direct threat to the health or safety of others.

2. The animal fundamentally alters the nature of the public place or the goods, services or activities provided.

3. The animal poses an undue burden.

C. Public places may maintain a general no pets policy if it is not used to exclude service animals and if it does not grant rights to any person to bring the person's pet into a public place that otherwise does not permit pets.

D. A service animal handler is liable for any damage done to a public place by the service animal or service animal in training.

E. Any trainer or individual with a disability may take an animal being trained as a service animal to a public place for purposes of training it to the same extent as provided in subsections A, B and C of this section.

F. A zoo or wild animal park may prohibit a service animal, including a dog guide or service dog, from any area of the zoo or wild animal park where the service animal may come into direct contact with the animals contained in the zoo or wild animal park. Service animals shall not be excluded from public walkways or sidewalks or from any area that allows for physical barriers between the service animals, dog guides or service dogs and the animals in the zoo or wild animal park. Any zoo or wild animal park that prohibits dog guides and service dogs shall provide without cost adequate facilities for the temporary confinement of dog guides and service dogs. The facilities shall be adequate to accommodate the anticipated attendance of legally blind, deaf or ~~physically disabled~~ persons WITH PHYSICAL DISABILITIES, shall be in an area not accessible to the general public, shall provide water for the dog guides and service dogs and shall otherwise be safe, clean and comfortable. The zoo or wild animal park on request by a legally blind person who is required to leave that person's dog guide or service dog pursuant to this subsection shall provide a sighted escort if the legally blind person is unaccompanied by a sighted person.

G. The driver of a vehicle approaching a legally blind pedestrian who is carrying a cane that is predominately white or metallic in color, who is using a service animal or who is assisted by a sighted person shall yield the right-of-way and take reasonable precautions to avoid injury to the pedestrian and the service animal. The pedestrian has the same rights as any other person whether or not the pedestrian is carrying the cane, using a service animal or being assisted by a sighted person. Drivers shall take the same precautions with respect to pedestrians who have a disability other than blindness and their service animals. A driver who violates this subsection is liable for damages for any injury caused to the pedestrian or the service animal.

H. Any person or entity that violates subsections A through G of this section is guilty of a class 2 misdemeanor.

I. This section is not intended to affect any civil remedies available for a violation of this section.

J. For the purposes of this section:

1. "Direct threat to the health or safety of others" means that a significant risk to the health or safety of others exists and cannot be eliminated by modification of policies, practices or procedures or by the provision of auxiliary aids or services.

2. "Discriminate" means discriminatory actions prescribed in section 41-1492.02 and includes:

(a) Refusing to permit an individual with a disability to enter a public place with a service animal or interfering with the individual's right to enter or use the public place.

(b) Failing to provide an individual with a disability the same services and access to the same areas of the premises as afforded to others.

(c) Attempting to impose a charge, fee or deposit because an individual with a disability is accompanied by a service animal.

(d) Requiring an individual with a disability to disclose disability related information. However, a public accommodation may ask if the animal is a service animal being used because of a disability.

(e) Requiring provision of identification for the service animal.

3. "Individual with a disability" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

4. "Public place" means any office or place of business or recreation to which the general public is invited, whether operated by a public or private entity and includes all forms of conveyance, including taxis, tow trucks and ambulances.

5. "Service animal" means any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. Service animal does not include other species of animals, whether wild or domestic or trained or untrained.

6. "Wild animal park" means an entity that is open to the public on a regular basis, that is licensed by the United States department of agriculture as an exhibit and that is operating primarily to conserve, propagate and exhibit wild and exotic animals.

Sec. 18. Section 12-128.01, Arizona Revised Statutes, is amended to read:

12-128.01. Receipt of salary by judges and commissioners; affidavit; pending and undetermined causes; violation; classification

A. A superior court judge or commissioner shall not receive his salary unless such judge or commissioner either certifies that no cause before such judge or commissioner remains pending and undetermined for sixty days after it has been submitted for decision or there is submitted by the chief justice of the Arizona supreme court a certification that such superior court judge or commissioner has ~~been physically disabled~~ HAD A PHYSICAL DISABILITY during the preceding sixty days or that good and sufficient cause exists to excuse the application of this section to particularly identified litigation then pending.

B. Any certification submitted by the chief justice pursuant to subsection A shall set forth in detail the nature and duration of the physical disability involved or the reason why subsection A should not apply to the specified pending litigation.

C. Any person who issues or causes to be issued any check, warrant or payment to a judge or commissioner knowing that, pursuant to this section, such judge or commissioner should not receive his salary is guilty of a class 3 misdemeanor.

Sec. 19. Section 12-302, Arizona Revised Statutes, is amended to read:

12-302. Extension of time for payment of fees and costs; relief from default for nonpayment; deferral or waiver of court fees and costs; definitions

A. The court or any judge may for good cause shown extend the time for paying any court fees and costs required by law or may relieve against a default caused by nonpayment of a fee within the time provided by law, but no fees paid shall be refunded.

B. The supreme court shall adopt forms and procedures for deferral or waiver of court fees and costs.

C. Except as provided in subsection E of this section, the court shall grant an application for deferral of court fees and costs if the applicant establishes by affidavit, including supporting documentation, that the applicant either:

1. Is receiving benefits pursuant to one or more of the following programs:

(a) The temporary assistance for needy families program established by section 403 of title 4 of the social security act as it exists after August 21, 1996.

(b) The food stamp program (7 United States Code sections 2011 through 2029).

2. Is receiving benefits pursuant to the supplemental security income program (42 United States Code sections 1381 through 1385).

3. Has an income that is insufficient or barely sufficient to meet the daily essentials of life and that includes no allotment that could be budgeted for the fees and costs that are required to gain access to the court. In considering insufficient income pursuant to this paragraph, the court may consider the following as evidence of insufficient income:

(a) The applicant has a gross income that as computed on a monthly basis is one hundred fifty per cent or less of the current poverty level established by the United States department of health and human services. Gross monthly income includes the applicant's share of community property income.

(b) The applicant's income is considered to be sufficient, but the applicant provides proof of extraordinary expenses, including medical expenses, costs of care for elderly or ~~disabled~~ family members WITH DISABILITIES or other expenses that are deemed extraordinary, that reduce the applicant's gross monthly income to at or below one hundred fifty per cent of the current poverty level established by the United States department of health and human services.

D. On proof that the applicant is permanently unable to pay fees or costs, the court shall waive them. For the purposes of this subsection, "permanently unable to pay" means the applicant's income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and the income and liquid assets are unlikely to change in the foreseeable future.

E. Except in cases of dissolution of marriage, legal separation, annulment or establishment, enforcement or modification of child support, and notwithstanding subsection A of this section or chapter 9, article 4 of this title, if the applicant is an inmate who is confined to a correctional facility operated by the state department of corrections and who initiates a civil action or proceeding, the inmate is responsible for the full payment of actual court fees and costs. On filing the civil action or proceeding, the clerk of the court shall assess and, when monies exist, collect as a partial payment of any court fees and costs required by law a first time payment of twenty per cent. Thereafter the state department of corrections shall withhold twenty per cent of all deposits into the prisoner's spendable account administered by the department until the actual court fees and costs are collected in full. The state department of corrections shall annually forward any monies withheld to the clerk of the court of each court of jurisdiction before January 31. If a prisoner is released before the full fees and costs are collected, the state department of corrections shall forward the amount of fees and costs collected through the date of the prisoner's release. The clerk of the court of each court of jurisdiction is

responsible for sending the state department of corrections a copy of the order mandating the amount of fees and costs to be paid. This subsection does not prohibit an applicant from filing a civil action or proceeding if the applicant is unable to pay the filing fees.

F. At the time an applicant signs and submits the application for deferral to the court, the applicant shall acknowledge under oath and sign a consent to judgment. By signing the consent to judgment, the applicant consents to judgment being entered against the applicant for all fees and costs that are deferred but that remain unpaid after thirty calendar days following the entry of final judgment or order. A consent judgment may be entered against the applicant unless one of the following applies:

1. The applicant has an established schedule of payment in effect and is current with payments.

2. A supplemental application for further deferral or waiver has been filed and is pending.

3. In response to a supplemental application, the court orders that the fees and costs be further deferred or waived.

4. Within twenty days of the date the court denies the supplemental application, the applicant either pays the fees or requests a hearing on the court's final order denying further deferral or waiver. If the applicant requests a hearing, the court shall not enter a consent judgment unless a hearing is held, further deferral or waiver is denied and payment has not been made within the time prescribed by the court.

G. An applicant who is granted a deferral or waiver or a party to the action who knows of any change in the financial circumstances of the applicant shall promptly notify the court of the change in the applicant's financial circumstances during the pendency of the action that affects the applicant's ability to pay court fees and costs. If within ten days after notice and a hearing the court determines that the applicant's financial circumstances have changed and that the applicant no longer meets the eligibility requirements of this section, the court shall order the applicant to pay the deferred or waived fees and costs.

H. The following court fees and costs may be deferred or waived, except that the county shall pay the fees and costs in paragraphs 6 and 7 of this subsection on the granting of an application for deferral or waiver and an applicant who has been granted a deferral shall reimburse the county for the fees and costs in paragraphs 6 and 7 of this subsection:

1. Filing fees.

2. Fees for issuance of either a summons or subpoena.

3. Fees for obtaining one certified copy of a temporary order in a domestic relations case.

4. Fees for obtaining one certified copy of a final order, judgment or decree in all civil proceedings.

5. Sheriff, marshal, constable and law enforcement fees for service of process if any of the following applies:

(a) The applicant established by affidavit that the applicant has attempted without success to obtain voluntary acceptance of service of process.

(b) The applicant's attempt to obtain voluntary acceptance of service of process would be futile or dangerous.

(c) An order of protection or an injunction against harassment in favor of the applicant and against the party sought to be served exists and is enforceable.

6. The fee for service by publication if service is required by law and if the applicant establishes by affidavit specific facts to show that the applicant has exercised due diligence in attempting to locate the person to be served and has been unable to do so.

7. Court reporter's fees for the preparation of court transcripts if the court reporter is employed by the court.

8. Appeal preparation and filing fees at all levels of appeal and photocopy fees for the preparation of the record on appeal pursuant to sections 12-119.01, 12-120.31 and 12-2107 and section 12-284, subsection A.

I. If the case is appealed, the initial deferral or waiver remains in effect unless there is a change in the applicant's financial circumstances. If a case is appealed an applicant may be required to submit to the appellate court a new application for a deferral or waiver of the court fees and costs.

J. If a judgment is rendered for court fees and costs, the court fees and costs deferred but unpaid and the expenses paid by the county under this section shall be included in the judgment and shall be paid directly to the clerk of the court by the party against whom the court fees and costs were assessed.

K. A waiver of court fees or costs shall not be granted for:

1. Matters that are filed as class actions pursuant to rule 23 of the Arizona rules of civil procedure.

2. Civil actions other than cases of dissolution of marriage, legal separation, annulment or establishment, enforcement or modification of child support that are filed by persons who at the time of filing the application are incarcerated as a result of a felony conviction in an out-of-state correctional facility or in a jail waiting to be transported to a state department of corrections facility.

L. This section does not limit the court's discretion in deferring, waiving or ordering the county to pay any fees and costs as may be necessary and appropriate.

M. For the purposes of this section:

1. "Deferral" means either postponement of an obligation to pay fees or establishment of a schedule for payment of fees.

2. "Further deferral" means the establishment of a schedule for payment of fees.

Sec. 20. Section 12-1596, Arizona Revised Statutes, is amended to read:

12-1596. Forms

A. The court, justice of the peace or city or town magistrate shall provide to the parties, at no charge, copies of the following documents required to be delivered pursuant to section 12-1574:

1. The notice to judgment debtor and request for hearing form.

2. The answer form.

3. The instructions to garnishee.

B. The notice to judgment debtor and request for hearing form shall be in a form prescribed by the supreme court and shall contain at least the following:

1. An explanation of the judgment debtor's rights and responsibilities relating to the garnishment procedure, including information concerning:

(a) Exemption rights.

(b) Grounds for objecting to the writ.

(c) The objection and hearing procedures.

2. A form on which the judgment debtor may request a hearing.

C. The notice to judgment debtor and request for hearing form prescribed by the supreme court shall be in substantially the following form:

Notice to judgment debtor or defendant

(Non-earnings)

You are hereby notified that this court has issued an order in the above case in favor of the judgment creditor in this proceeding, directing that some of your money, property or corporate shares or interest be used to satisfy some of your debt to the judgment creditor. The order was issued to enforce the judgment creditor's judgment, support order or provisional remedy order against you that was obtained in (the name of court) in (case number) on (date). A copy of the judgment or order is attached.

The law provides that monies from certain benefits or in certain amounts are free from the claims of creditors even if deposited in a bank, savings and loan association or credit union. Some examples of exempt monies appear later in this notice. The law also provides that certain personal property is exempt from the claims of creditors. Some examples of exempt property appear later in this notice.

Within ten days after being served with the writ of garnishment the garnishee who is holding your money or personal property is required to mail or deliver to you his answer stating what money or personal property he is withholding from you for the judgment creditor pursuant to the writ.

You may object to the garnishment or file a claim of exemption by requesting a hearing with this court, if you believe any of the following is true:

1. The judgment creditor does not have a valid provisional remedy order or support order or judgment against you or that the debt or judgment has been paid in full.

2. Some or all of the monies which are being withheld by the garnishee may be exempt monies. Examples of exempt monies are:

(a) One hundred fifty dollars in a bank, savings and loan association or credit union account. (Three hundred dollars for married account holders.)

(b) Temporary assistance for needy families.

(c) Supplemental security income (SSI).

(d) Social security benefits (SSA).

(e) ~~Veterans' administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS benefits (VA).

(f) Certain pension benefits and retirement funds.

(g) Workers' compensation benefits.

(h) Some insurance proceeds.

Other state and federal exemptions may apply. Certain exemptions may not apply to support orders or to the collection of taxes. An attorney can assist you in determining what monies are exempt.

3. Some or all of the personal property being withheld by the garnishee may be exempt property. Examples of exempt personal property are:

(a) Household goods, furniture and appliances.

(b) Up to one thousand five hundred dollars equity value for each owner of a car or truck. (Three thousand dollars equity value if the owner ~~is physically handicapped~~ HAS A PHYSICAL DISABILITY.)

(c) Wearing apparel, musical instruments, televisions or stereos and other personal items.

(d) Tools and equipment used in a commercial activity, trade, business or profession.

These exemptions are limited in statute by description and dollar value. An attorney can assist you in determining what personal property is exempt.

4. More than fifteen days have passed since the garnishee was served with the writ and you have not yet received the garnishee's answer.

5. You otherwise disagree with the answer of the garnishee. To request a hearing, deliver the request for hearing form appearing below, or a substantially similar form, to the court clerk's office. At the same time, you must mail or deliver a copy (photocopy or handwritten copy) of the request for hearing to the judgment creditor and the garnishee at the address stated in the writ. If you do not deliver the request for hearing form to this court within ten days after the date you receive the answer of garnishee, your request for hearing will be denied, unless a good reason for the delay, acceptable to the court, is shown.

If you request a hearing it will be held no later than five days, not including weekends and holidays, after your request is received by the court. If appropriate, you may request a hearing before the garnishee files his answer.

The court will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney.

Request for hearing

I request a hearing to object to the garnishment or claim exempt monies because:

_____ 1. The judgment is not valid.

_____ 2. The judgment has been paid.

_____ 3. Exempt monies are being garnished:

_____ (a) One hundred fifty dollars in a bank, savings and loan association or credit union.

_____ (b) Temporary assistance for needy families, social security benefits, supplemental security income or ~~veterans' administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS benefits.

_____ (c) Other pension or retirement benefits.

_____ (d) Workers' compensation or other insurance benefits.

_____ (e) Other _____.

_____ 4. Exempt personal property is being garnished:

_____ (a) Household goods, furnishings or appliances.

_____ (b) Motor vehicle equity under one thousand five hundred dollars or three thousand dollars, if applicable.

_____ (c) Personal items.

_____ (d) Tools and equipment of a trade.

_____ (e) Other _____.

_____ 5. No answer has been received within fifteen days.

_____ 6. The answer of the garnishee is incorrect.

_____ 7. Other _____.

_____

Date

_____

Name (print)

_____

Signature

_____

Address

_____

City, state, zip code

_____

Telephone number

Warning: To request a hearing, this document, or one similar, must be received by this court within ten days after your receipt of the answer of garnishee, unless good reason for the delay is shown.

D. At the top of the first page of the notice to judgment debtor and request for hearing form described in subsections B and C of this section, a Spanish translation shall be printed of the following language:

The court has issued an order requiring the garnishee to deliver money or property it owes you to the judgment creditor because of the judgment he has against you. In some circumstances your money or property is protected by law from being taken. This is explained in the notice. A Spanish translation of that notice can be obtained from the court.

E. The answer form shall be in a form prescribed by the supreme court and shall require at a minimum that the answer of the garnishee set forth those items required to be set forth pursuant to section 12-1579, subsection D.

F. The instructions to garnishee shall be in a form prescribed by the supreme court and shall contain at a minimum:

1. An explanation of the garnishee's responsibilities relating to the garnishment procedure, including instructions for the proper completion of the required forms.

2. A notice to the garnishee concerning the provisions of sections 12-1583 and 12-1593.

G. A party to a garnishment proceeding may use documents other than those provided pursuant to subsection A of this section, if such documents are substantially similar to those prescribed by the supreme court pursuant to this section.

Sec. 21. Section 13-701, Arizona Revised Statutes, is amended to read:

13-701. <u>Sentence of imprisonment for felony; presentence report; aggravating and mitigating factors; consecutive terms of imprisonment; definition</u>

A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections.

B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent presentence investigation report unless the court has waived preparation of the report.

C. The minimum or maximum term imposed pursuant to section 13-702, 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be imposed only if one or more of the circumstances alleged to be in aggravation of the crime are found to be true by the trier of fact beyond a reasonable doubt or are admitted by the defendant, except that an alleged aggravating circumstance under subsection D, paragraph 11 of this section shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

D. For the purpose of determining the sentence pursuant to subsection C of this section, the trier of fact shall determine and the court shall consider the following aggravating circumstances, except that the court shall determine an aggravating circumstance under paragraph 11 of this subsection:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.

2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-704.

3. If the offense involves the taking of or damage to property, the value of the property taken or damaged.

4. Presence of an accomplice.

5. Especially heinous, cruel or depraved manner in which the offense was committed.

6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.

9. The victim or, if the victim has died as a result of the conduct of the defendant, the victim's immediate family suffered physical, emotional or financial harm.

10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.

13. The victim of the offense is at least sixty-five years of age or is a ~~disabled~~ person WITH A DISABILITY as defined in section 38-492, subsection B.

14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.

15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception

of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.

16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.

17. Lying in wait for the victim or ambushing the victim during the commission of any felony.

18. The offense was committed in the presence of a child and any of the circumstances exists that are set forth in section 13-3601, subsection A.

19. The offense was committed in retaliation for a victim either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

20. The defendant was impersonating a peace officer as defined in section 1-215.

21. The defendant was in violation of 8 United States Code section 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

22. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:

(a) "Authorized remote stun gun" means a remote stun gun that has all of the following:

(i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(iv) A training program that is offered by the manufacturer.

(b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

23. During or immediately following the commission of the offense, the defendant committed a violation of section 28-661, 28-662 or 28-663.

24. Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime.

E. For the purpose of determining the sentence pursuant to subsection C of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

3. The defendant was under unusual or substantial duress, although not to a degree that would constitute a defense to prosecution.

4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. During or immediately following the commission of the offense, the defendant complied with all duties imposed under sections 28-661, 28-662 and 28-663.

6. Any other factor that is relevant to the defendant's character or background or to the nature or circumstances of the crime and that the court finds to be mitigating.

F. If the trier of fact finds at least one aggravating circumstance, the trial court may find by a preponderance of the evidence additional aggravating circumstances. In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to justify the lesser term. If the trier of fact finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.

G. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

H. This section does not affect any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

I. The intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title is malfeasance.

J. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

Sec. 22. Section 13-925, Arizona Revised Statutes, is amended to read:

13-925. <u>Restoration of right to possess a firearm; mentally ill persons; petition</u>

A. A person may petition the court that entered an order, finding or adjudication that resulted in the person being a prohibited possessor as defined in section 13-3101, subsection A, paragraph 7, subdivision (a) or

subject to 18 United States Code section 922(d)(4) or (g)(4) to restore the person's right to possess a firearm.

B. The person or the person's guardian or attorney may file the petition. The petition shall be served on the attorney for the state who appeared in the underlying case.

C. On THE filing of the petition the court shall set a hearing. At the hearing, the person shall present psychological or psychiatric evidence in support of the petition. The state shall provide the court with the person's criminal history records, if any. The court shall receive evidence on and consider the following before granting or denying the petition:

1. The circumstances that resulted in the person being a prohibited possessor as defined in section 13-3101, subsection A, paragraph 7, subdivision (a) or subject to 18 United States Code section 922(d)(4) or (g)(4).

2. The person's record, including the person's mental health record and criminal history record, if any.

3. The person's reputation based on character witness statements, testimony or other character evidence.

4. Whether the person is a danger to self or others~~, is persistently, acutely or gravely disabled~~ OR HAS PERSISTENT, ACUTE OR GRAVE DISABILITIES or whether the circumstances that led to the original order, adjudication or finding remain in effect.

5. Any change in the person's condition or circumstances that is relevant to the relief sought.

6. Any other evidence deemed admissible by the court.

D. The petitioner shall prove by clear and convincing evidence both of the following:

1. The petitioner is not likely to act in a manner that is dangerous to public safety.

2. Granting the requested relief is not contrary to the public interest.

E. At the conclusion of the hearing, the court shall issue findings of fact and conclusions of law.

F. If the court grants the petition for relief, the original order, finding or adjudication is deemed not to have occurred for the purposes of applying section 13-3101, subsection A, paragraph 7, subdivision (a), Public Law 110-180, section 105(a) or 18 United States Code section 922(d)(4) or (g)(4) to that person.

G. The granting of a petition under this section only restores the person's right to possess a firearm and does not apply to and has no ~~affect~~ EFFECT on any other rights or benefits the person receives.

H. The court shall promptly notify the department of public safety of an order granting a petition under this section. As soon thereafter as practicable the department shall update, correct, modify or remove the person's record in any database that the department maintains and makes

available to the national instant criminal background check system consistent with the rules pertaining to the database. Within ten business days after receiving the notification from the court, the department shall notify the United States attorney general that the person no longer falls within the provisions of section 13-3101, subsection A, paragraph 7, subdivision (a) or 18 United States Code section 922(d)(4) or (g)(4).

Sec. 23. Section 13-3101, Arizona Revised Statutes, is amended to read:

13-3101. Definitions

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

1. "Deadly weapon" means anything that is designed for lethal use. The term includes a firearm.

2. "Deface" means to remove, alter or destroy the manufacturer's serial number.

3. "Explosive" means any dynamite, nitroglycerine, black powder, or other similar explosive material, including plastic explosives. Explosive does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.

4. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will expel, is designed to expel or may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.

5. "Improvised explosive device" means a device that incorporates explosives or destructive, lethal, noxious, pyrotechnic or incendiary chemicals and that is designed to destroy, disfigure, terrify or harass.

6. "Occupied structure" means any building, object, vehicle, watercraft, aircraft or place with sides and a floor that is separately securable from any other structure attached to it, that is used for lodging, business, transportation, recreation or storage and in which one or more human beings either are or are likely to be present or so near as to be in equivalent danger at the time the discharge of a firearm occurs. Occupied structure includes any dwelling house, whether occupied, unoccupied or vacant.

7. "Prohibited possessor" means any person:

(a) Who has been found to constitute a danger to self or to others or to ~~be persistently or acutely disabled or gravely disabled~~ HAVE PERSISTENT OR ACUTE DISABILITIES OR GRAVE DISABILITIES pursuant to court order under section 36-540, and whose right to possess a firearm has not been restored pursuant to section 13-925.

(b) Who has been convicted within or without this state of a felony or who has been adjudicated delinquent for a felony and whose civil right to possess or carry a gun or firearm has not been restored.

(c) Who is at the time of possession serving a term of imprisonment in any correctional or detention facility.

(d) Who is at the time of possession serving a term of probation pursuant to a conviction for a domestic violence offense as defined in section 13-3601 or a felony offense, parole, community supervision, work furlough, home arrest or release on any other basis or who is serving a term of probation or parole pursuant to the interstate compact under title 31, chapter 3, article 4.1.

(e) Who is an undocumented alien or a nonimmigrant alien traveling with or without documentation in this state for business or pleasure or who is studying in this state and who maintains a foreign residence abroad. This subdivision does not apply to:

(i) Nonimmigrant aliens who possess a valid hunting license or permit that is lawfully issued by a state in the United States.

(ii) Nonimmigrant aliens who enter the United States to participate in a competitive target shooting event or to display firearms at a sports or hunting trade show that is sponsored by a national, state or local firearms trade organization devoted to the competitive use or other sporting use of firearms.

(iii) Certain diplomats.

(iv) Officials of foreign governments or distinguished foreign visitors who are designated by the United States department of state.

(v) Persons who have received a waiver from the United States attorney general.

8. "Prohibited weapon":

(a) Includes the following:

(i) An item that is a bomb, grenade, rocket having a propellant charge of more than four ounces or mine and that is explosive, incendiary or poison gas.

(ii) A device that is designed, made or adapted to muffle the report of a firearm.

(iii) A firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger.

(iv) A rifle with a barrel length of less than sixteen inches, or shotgun with a barrel length of less than eighteen inches, or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than twenty-six inches.

(v) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense.

(vi) A breakable container that contains a flammable liquid with a flash point of one hundred fifty degrees Fahrenheit or less and that has a wick or similar device capable of being ignited.

(vii) A chemical or combination of chemicals, compounds or materials, including dry ice, that is possessed or manufactured for the purpose of generating a gas to cause a mechanical failure, rupture or bursting or an

explosion or detonation of the chemical or combination of chemicals, compounds or materials.

(viii) An improvised explosive device.

(ix) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth in item (i), (vi) or (viii) of this subdivision.

(b) Does not include:

(i) Any fireworks that are imported, distributed or used in compliance with state laws or local ordinances.

(ii) Any propellant, propellant actuated devices or propellant actuated industrial tools that are manufactured, imported or distributed for their intended purposes.

(iii) A device that is commercially manufactured primarily for the purpose of illumination.

9. "Trafficking" means to sell, transfer, distribute, dispense or otherwise dispose of a weapon or explosive to another person, or to buy, receive, possess or obtain control of a weapon or explosive, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the weapon or explosive to another person.

B. The items set forth in subsection A, paragraph 8, subdivision (a), items (i), (ii), (iii) and (iv) of this section do not include any firearms or devices that are registered in the national firearms registry and transfer records of the United States treasury department or any firearm that has been classified as a curio or relic by the United States treasury department.

Sec. 24. Section 13-3994, Arizona Revised Statutes, is amended to read:

13-3994. Commitment; hearing; jurisdiction; definition

A. A person who is found guilty except insane pursuant to section 13-502 shall be committed to a secure state mental health facility under the department of health services for a period of treatment.

B. If the criminal act of the person committed pursuant to subsection A of this section did not cause the death or serious physical injury of or the threat of death or serious physical injury to another person, the court shall set a hearing date within seventy-five days after the person's commitment to determine if the person is entitled to release from confinement or if the person meets the standards for civil commitment pursuant to title 36, chapter 5. The court shall notify the medical director of the mental health facility, the attorney general, the county attorney, the victim and the attorney representing the person, if any, of the date of the hearing. Fourteen days before the hearing the director of the mental health facility shall submit to the court a report addressing the person's mental health and dangerousness.

C. At a hearing held pursuant to subsection B of this section:

1. If the person proves by clear and convincing evidence that the person no longer suffers from a mental disease or defect and is not

dangerous, the court shall order the person's release and the person's commitment ordered pursuant to section 13-502, subsection D shall terminate. Before determining to release a person pursuant to this paragraph, the court shall consider the entire criminal history of the person and shall not order the person's release if the court determines that the person has a propensity to reoffend.

2. If the court finds that the person still suffers from a mental disease or defect, may present a threat of danger to self or others, ~~is gravely disabled, is persistently or acutely disabled~~ HAS A GRAVE, PERSISTENT OR ACUTE DISABILITY or has a propensity to reoffend, it shall order the county attorney to institute civil commitment proceedings pursuant to title 36 and the person's commitment ordered pursuant to section 13-502, subsection D shall terminate.

D. If the court finds that the criminal act of the person committed pursuant to subsection A of this section caused the death or serious physical injury of or the threat of death or serious physical injury to another person, the court shall place the person under the jurisdiction of the psychiatric security review board. The court shall state the beginning date, length and ending date of the board's jurisdiction over the person. The length of the board's jurisdiction over the person is equal to the sentence the person could have received pursuant to section 13-707 or section 13-751, subsection A or the presumptive sentence the defendant could have received pursuant to section 13-702, subsection D, section 13-703, section 13-704, section 13-705, section 13-706, subsection A, section 13-710 or section 13-1406. In making this determination the court shall not consider the sentence enhancements for prior convictions under section 13-703 or 13-704. The court shall retain jurisdiction of all matters that are not specifically delegated to the psychiatric security review board for the duration of the presumptive sentence.

E. A person who is placed under the jurisdiction of the psychiatric security review board pursuant to subsection D of this section is not eligible for discharge from the board's jurisdiction until the board's jurisdiction over the person expires.

F. A person who is placed under the jurisdiction of the psychiatric security review board pursuant to subsection D of this section is not entitled to a hearing before the board earlier than one hundred twenty days after the person's initial commitment. A request for a subsequent release hearing may be made pursuant to subsection H of this section. After the hearing, the board may take one of the following actions:

1. If the psychiatric security review board finds that the person still suffers from a mental disease or defect and is dangerous, the board shall order that the person remain committed at the secure state mental health facility.

2. If the person proves by clear and convincing evidence that the person no longer suffers from a mental disease or defect and is not

1 dangerous, the psychiatric security review board shall order the person's
2 release. The person shall remain under the jurisdiction of the board.
3 Before determining to release a person pursuant to this paragraph, the board
4 shall consider the entire criminal history of the person and shall not order
5 the person's release if the board determines that the person has a propensity
6 to reoffend.
7 3. If the psychiatric security review board finds that the person
8 still suffers from a mental disease or defect or that the mental disease or
9 defect is in stable remission but the person is no longer dangerous, the
10 board shall order the person's conditional release. The person shall remain
11 under the board's jurisdiction. The board in conjunction with the state
12 mental health facility and behavioral health community providers shall
13 specify the conditions of the person's release. The board shall continue to
14 monitor and supervise a person who is released conditionally. Before the
15 conditional release of a person, a supervised treatment plan shall be in
16 place, including the necessary funding to implement the plan.
17 4. If the person is sentenced pursuant to section 13-704, section
18 13-710 or section 13-751, subsection A and the psychiatric security review
19 board finds that the person no longer needs ongoing treatment for a mental
20 disease and the person is dangerous or has a propensity to reoffend, the
21 board shall order the person to be transferred to the state department of
22 corrections for the remainder of the sentence imposed pursuant to section
23 13-502, subsection D. The board shall consider the safety and protection of
24 the public.
25 G. Within twenty days after the psychiatric security review board
26 orders a person to be transferred to the state department of corrections, the
27 person may file a petition for a judicial determination. The person shall
28 serve a copy of the request on the attorney general. If the person files a
29 petition for a judicial determination, the person shall remain in a state
30 mental health facility pending the result of the judicial determination. The
31 person requesting the judicial determination has the burden of proving the
32 issues by clear and convincing evidence. The judicial determination is
33 limited to the following issues:
34 1. Whether the person no longer needs ongoing treatment for a mental
35 disease.
36 2. Whether the person is dangerous or has a propensity to reoffend.
37 H. A person who is placed under the jurisdiction of the psychiatric
38 security review board pursuant to subsection D of this section may not seek a
39 new release hearing earlier than twenty months after a prior release hearing,
40 except that the medical director of the state mental health facility may
41 request a new release hearing for a person under the jurisdiction of the
42 psychiatric security review board at any time. The person shall not be held
43 in confinement for more than two years without a hearing before the board to
44 determine if the person should be released or conditionally released.

I. At any hearing for release or conditional release pursuant to this section:

1. Public safety and protection are primary.

2. The applicant has the burden of proof by clear and convincing evidence.

J. At least fifteen days before a hearing is scheduled to consider a person's release, or before the expiration of the board's jurisdiction over the person, the state mental health facility or supervising agency shall submit to the psychiatric security review board a report on the person's mental health. The psychiatric security review board shall determine whether to release the person or to order the county attorney to institute civil commitment proceedings pursuant to title 36.

K. The procedures for civil commitment govern the continued commitment of the person after the expiration of the jurisdiction of the psychiatric security review board.

L. Before a person is released or conditionally released, at least three of the five psychiatric security review board members shall vote for the release or conditional release.

M. If at any time while the person remains under the jurisdiction of the psychiatric security review board it appears to the board, the chairman or vice-chairman of the board or the medical director of the state mental health facility that the person has failed to comply with the terms of the person's conditional release or that the mental health of the person has deteriorated, the board or the chairman or vice-chairman of the board for good cause or the medical director of the state mental health facility may order that the person be returned to a secure state mental health facility for evaluation or treatment. A written order of the board, the chairman or vice-chairman of the board or the medical director is sufficient warrant for any law enforcement officer to take the person into custody and to transport the person accordingly. Any sheriff or other peace officer shall execute the order and shall immediately notify the board of the person's return to the facility. Within twenty days after the person's return to a secure state mental health facility the board shall conduct a hearing and shall give notice within five days before the hearing of the time and place of the hearing to the person, the victim, the attorney representing the person, the county attorney and the attorney general.

N. The director of a facility that is providing treatment to a person on conditional release or any other person who is responsible for the supervision of the person may take the person or request that the person be taken into custody if there is reasonable cause to believe that the person's mental health has deteriorated to the point that the person's conditional release should be revoked and that the person is in need of immediate care, custody or treatment or that deterioration is likely because of noncompliance with a treatment program. A person who is taken into custody pursuant to this subsection shall be transported immediately to a secure state mental

health facility and shall have the same rights as any person appearing before the psychiatric security review board.

O. Before the initial hearing or any other hearing before the psychiatric security review board on the release or conditional release of the person, the person, the attorney who is representing the person and the attorney general or county attorney who is representing the state may choose a psychiatrist licensed pursuant to title 32, chapter 13 or 17 or a psychologist licensed pursuant to title 32, chapter 19.1 to examine the person. All costs in connection with the examination shall be approved and paid by the county of the sentencing court. The written examination results shall be filed with the board and shall include an opinion as to:

1. The mental condition of the person.

2. Whether the person is dangerous.

P. Notwithstanding subsection O of this section, the board or the chairman of the board for good cause may order an independent mental health evaluation by a psychiatrist licensed pursuant to title 32, chapter 13 or 17 or a psychologist licensed pursuant to title 32, chapter 19.1. The written examination results shall be filed with the board pursuant to subsection O of this section.

Q. If a person is found guilty except insane pursuant to section 13-502, the department of health services shall assume custody of the person within ten days after receiving the order committing the person pursuant to subsection A of this section. The Arizona state hospital shall collect census data for guilty except insane treatment programs to establish maximum capacity and the allocation formula required pursuant to section 36-206, subsection D. If the Arizona state hospital reaches its funded capacity for forensic programs, the department of health services may defer the admission of the person found guilty except insane for up to an additional twenty days. The department of health services shall reimburse the county for the actual costs of each day the admission is deferred. If the department of health services is not able to admit the person found guilty except insane at the conclusion of the twenty day deferral period, the department of health services shall notify the sentencing court, the prosecutor and the defense counsel of this fact. On receipt of this notification, the prosecutor or the person's defense counsel may request a hearing to determine the likely length of time admission will continue to be deferred and whether any other action should be taken. On receipt of the request for hearing, the court shall set a hearing within ten days.

R. For the purposes of this section, "state mental health facility" means a secure state mental health facility under the department of health services.

Sec. 25. Section 14-5312, Arizona Revised Statutes, is amended to read:

14-5312. General powers and duties of guardian

A. A guardian of an incapacitated person has the same powers, rights and duties respecting the guardian's ward that a parent has respecting the parent's unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the guardianship. In particular, and without qualifying the foregoing, a guardian has the following powers and duties, except as modified by order of the court:

1. To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within or without this state.

2. If entitled to custody of the ward the guardian shall make provision for the care, comfort and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

3. A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service.

4. If no conservator for the estate of the ward has been appointed, the guardian may:

(a) Institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform such person's duty.

(b) Receive money and tangible property deliverable to the ward and apply the money and property for support, care and education of the ward, but the guardian may not use funds from his ward's estate for room and board the guardian or the guardian's spouse, parent or child has furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the ward, if notice is possible. He must exercise care to conserve any excess for the ward's needs.

5. A guardian is required to report the condition of the ward and of the estate that has been subject to the guardian's possession or control, as required by the court or court rule.

6. If a conservator has been appointed, all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care and education of the ward shall be paid to the conservator for management as provided in this chapter and the guardian must account to the conservator for funds expended.

7. If appropriate, a guardian shall encourage the ward to develop maximum self-reliance and independence and shall actively work toward

limiting or terminating the guardianship and seeking alternatives to guardianship.

8. A guardian shall find the most appropriate and least restrictive setting for the ward consistent with the ward's needs, capabilities and financial ability.

9. A guardian shall make reasonable efforts to secure appropriate medical and psychological care and social services for the ward.

10. A guardian shall make reasonable efforts to secure appropriate training, education and social and vocational opportunities for his ward in order to maximize the ward's potential for independence.

11. In making decisions concerning his ward, a guardian shall take into consideration the ward's values and wishes.

12. The guardian is authorized to act pursuant to title 36, chapter 32.

13. The guardian of an incapacitated adult who has a developmental disability as defined in section 36-551 shall seek services that are in the best interest of the ward, taking into consideration:

(a) The ward's age.

(b) The degree or type of developmental disability.

(c) The presence of other ~~handicapping~~ DISABLING conditions.

(d) The guardian's ability to provide the maximum opportunity to develop the ward's maximum potential, to provide a minimally structured residential program and environment for the ward and to provide a safe, secure, and dependable residential and program environment.

(e) The particular desires of the individual.

B. Any guardian of a ward for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for the guardian's services and for room and board furnished to the ward as agreed upon between the guardian and the conservator if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

Sec. 26. Section 14-5425, Arizona Revised Statutes, is amended to read:

14-5425. Distributive duties and powers of conservator

A. A conservator may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care or benefit of the protected person and the person's dependents in accordance with the following principles:

1. The conservator shall consider recommendations relating to the appropriate standard of support, education and benefit for the protected person made by a parent or guardian, if any. The conservator may not be surcharged for sums paid to persons or organizations actually furnishing support, education or care to the protected person pursuant to the recommendations of a parent or guardian of the protected person unless the conservator knows that the parent or guardian is deriving personal financial

benefit from this action, including relief from any personal duty of support, or unless the recommendations are clearly not in the best interests of the protected person.

2. The conservator shall expend or distribute sums reasonably necessary for the support, education, care or benefit of the protected person and the person's dependents with due regard to:

(a) The size of the estate, the probable duration of the conservatorship and the likelihood that the protected person, at some future time, may be fully able to be wholly self-sufficient and able to manage business affairs and the estate.

(b) The accustomed standard of living of the protected person and the person's dependents.

(c) Other funds or sources used for the support of the protected person.

3. With respect to the affairs and estate of a minor, the conservator shall also consider the following factors in making estate distributions:

(a) The financial responsibility and financial resources of the parents of the child.

(b) Extraordinary custodial responsibilities undertaken by the parent or parents as the result of the child's physical or mental condition and the effect of these extraordinary responsibilities on appropriate gainful employment of the parent.

(c) The physical and mental condition of the child and the child's medical and educational needs. Any incidental benefit to other members of the child's household derived from a distribution is not a disqualifying factor.

(d) If the child ~~is permanently and totally disabled~~ HAS A PERMANENT AND TOTAL DISABILITY, the standard of living the child should reasonably expect to enjoy given the financial resources available to the child.

4. The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household, who are unable to support themselves and who are in need of support. If benefits are being paid by the ~~veterans administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS to the conservator, such income may be expended only for the support of the protected person and the person's spouse and minor children, except on petition to and prior order of the court after a hearing.

5. Funds expended under this subsection may be paid by the conservator to any person, including the protected person, to reimburse for expenditures that the conservator might have made, or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.

6. A conservator, in discharging the responsibilities conferred by a court order and this section, shall implement the principles described in section 14-5408 to the extent possible.

B. When a minor who has not been adjudged ~~disabled~~ TO HAVE A DISABILITY under section 14-5401, SUBSECTION A, paragraph 2 attains majority, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

C. When the conservator is satisfied that a protected person's disability, other than minority, has ceased, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible.

D. If a protected person dies, the conservator may deliver to the court for safekeeping any will of the deceased protected person that may have come into the conservator's possession or deliver the will to the personal representative named in the will. If the will is delivered to the personal representative named in the will, a copy of the will shall be filed with the court in the conservatorship proceeding. If the will is filed with the court, the conservator shall inform the personal representative or a beneficiary named in the will that the conservator has done so, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled to the estate. If any of the following situations exist, the conservator may apply to exercise the powers and duties of a personal representative so that the conservator may proceed to administer and distribute the decedent's estate without additional or further appointment:

1. Forty days after the death of the protected person another person has not been appointed personal representative and an application or petition for appointment is not before the court.

2. Another person has not been appointed personal representative after the protected person's death, an application or petition for appointment is not before the court and the conservator is the person with priority as determined by a probated will, including a person who is nominated by a power conferred in a will.

3. Another person has not been appointed personal representative after the protected person's death, an application or petition for appointment is not before the court, after the exercise of reasonable diligence the conservator is unaware of any unrevoked testamentary instrument relating to property located in this state and all the heirs of the protected person have nominated the conservator to exercise the powers and duties of a personal representative.

E. The conservator may include in an application made pursuant to subsection D of this section a request to probate the will of the deceased protected person or to adjudicate that the protected person died intestate and to determine the protected person's heirs. On receipt of an application, the registrar, after making the findings required pursuant to section 14-3303, if applicable, shall issue a written statement of informal probate, or a statement of intestacy, and shall endorse the letters of the conservator. The registrar may also enter the will of the deceased protected person to probate. The statement of the registrar under this section shall have the effect of an order of appointment of a personal representative as provided in section 14-3308 and chapter 3, articles 6 through 10 of this title, except that the estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior retransfer to the conservator as personal representative. In exercising the powers and duties of a personal representative after the death of the protected person, the conservator is not required to account for the administration pursuant to section 14-5419 but is subject to the related duties of a personal representative for the administration.

F. If a protected person dies, and on reasonable inquiry the conservator is unable to locate any person specified in section 36-831, subsection A, paragraphs 1 through 11 willing to assume the duty of burying the body of the decedent or making other funeral and disposition arrangements, the conservator may make reasonable burial or other funeral arrangements, the cost of which is a charge against the estate.

G. The estate of a deceased protected person is liable for any unpaid expenses of the conservator's administration, and such expenses are a lien on property transferred by the conservator to the decedent's personal representative.

Sec. 27. Section 14-5501, Arizona Revised Statutes, is amended to read:

14-5501. <u>Durable power of attorney; creation; validity</u>

A. A durable power of attorney is a written instrument by which a principal designates another person as the principal's agent. The instrument shall contain words that demonstrate the principal's intent that the authority conferred in the durable power of attorney may be exercised:

1. If the principal is subsequently ~~disabled~~ A PERSON WITH A DISABILITY or incapacitated.

2. Regardless of how much time has elapsed, unless the instrument states a definite termination time.

B. The written instrument may demonstrate the principal's intent required by subsection A of this section using either of the following statements or similar language:

1. "This power of attorney is not affected by subsequent disability or incapacity of the principal or lapse of time."

2. "This power of attorney is effective on the disability or incapacity of the principal."

C. A power of attorney executed in another jurisdiction of the United States is valid in this state if the power of attorney was validly executed in the jurisdiction in which it was created.

D. Except as provided in section 28-370, an adult, known as the principal, may designate another adult, known as the agent, to make financial decisions on the principal's behalf by executing a written power of attorney that satisfies all of the following requirements:

1. Contains language that clearly indicates that the principal intends to create a power of attorney and clearly identifies the agent.

2. Is signed or marked by the principal or signed in the principal's name by some other individual in the principal's conscious presence and at the principal's direction.

3. Is witnessed by a person other than the agent, the agent's spouse, the agent's children or the notary public.

4. Is executed and attested by its acknowledgment by the principal and by an affidavit of the witness before a notary public and evidenced by the notary public's certificate, under official seal, in substantially the following form:

> I, _____, the principal, sign my name to this power of attorney this _____ day of _____ and, being first duly sworn, do declare to the undersigned authority that I sign and execute this instrument as my power of attorney and that I sign it willingly, or willingly direct another to sign for me, that I execute it as my free and voluntary act for the purposes expressed in the power of attorney and that I am eighteen years of age or older, of sound mind and under no constraint or undue influence.
>
> _____
>
> Principal
>
> I, _____, the witness, sign my name to the foregoing power of attorney being first duly sworn and do declare to the undersigned authority that the principal signs and executes this instrument as the principal's power of attorney and that the principal signs it willingly, or willingly directs another to sign for the principal, and that I, in the presence and hearing of the principal, sign this power of attorney as witness to the principal's signing and that to the best of my knowledge the principal is eighteen years of age or older, of sound mind and under no constraint or undue influence.
>
> _____
>
> Witness
>
> The state of _____
>
> County of _____

Subscribed, sworn to and acknowledged before me by _____, the principal, and subscribed and sworn to before me by _____, witness, this _____ day of _____.

(seal)

(signed) _____

_____

(notary public)

E. The execution requirements for the creation of a power of attorney provided in subsection D of this section do not apply if the principal creating the power of attorney is:

1. A person other than a natural person.

2. Any person, if the power of attorney to be created is a power coupled with an interest. For the purposes of this paragraph, "power coupled with an interest" means a power that forms a part of a contract and is security for money or for the performance of a valuable act.

F. A person whose license as a fiduciary has been suspended or revoked pursuant to section 14-5651 may not serve as an agent under a power of attorney in any capacity unless the person is related to the principal by blood, adoption or marriage. This prohibition does not apply if the person's license has been reinstated and is in good standing.

Sec. 28. Section 14-5502, Arizona Revised Statutes, is amended to read:

14-5502. Effect of lapse of time, disability or incapacity

All acts done by an agent pursuant to a durable power of attorney during any period of disability or incapacity of the principal ~~has~~ HAVE the same effect and ~~inures~~ INURE to the benefit of and ~~binds~~ BIND the principal and the principal's successors in interest as if the principal were not incapacitated or ~~disabled~~ A PERSON WITH A DISABILITY.

Sec. 29. Section 14-5503, Arizona Revised Statutes, is amended to read:

14-5503. Relation of agent to court appointed fiduciary

A. If, following execution of a durable power of attorney, a court of the principal's domicile appoints any conservator or other fiduciary charged with the management of all of the principal's property or all of the principal's property except for specified exclusions, the agent is accountable to the court appointed fiduciary as well as to the principal. The court appointed fiduciary has the same power to revoke or amend the power of attorney that the principal would have if the principal were not ~~disabled~~ A PERSON WITH A DISABILITY or incapacitated.

B. A principal may nominate, by a durable power of attorney, the conservator or the guardian of the principal for consideration by the court if protective proceedings for the principal or estate are commenced.

Sec. 30. Section 14-6205, Arizona Revised Statutes, is amended to read:

14-6205. Designation of agent; authority; termination

A. By a writing signed by all parties, the parties may designate as an agent for all of the parties on the account a person who is not a party to the account.

B. Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a ~~disabled~~ PARTY WITH DISABILITIES or incapacitated party until the authority of the agent is terminated. The death of the sole party or last surviving party terminates the authority of an agent.

Sec. 31. Section 14-6222, Arizona Revised Statutes, is amended to read:

14-6222. Multiple party accounts; payment; proof of death and survivorship

A financial institution, on request, may pay sums on deposit on a multiple party account to:

1. One or more of the parties, whether or not another party is ~~disabled~~ A PARTY WITH DISABILITIES, incapacitated or deceased when payment is requested and whether or not the party making the request survives another party.

2. The personal representative, or, if there is none, the heirs or devisees of a deceased party who present an affidavit in compliance with section 14-3971, subsection B and proof of death to the financial institution showing that the deceased party was the survivor of all other persons named on the account either as a party or beneficiary, unless the account is without right of survivorship under section 14-6212.

Sec. 32. Section 14-6223, Arizona Revised Statutes, is amended to read:

14-6223. Pay on death accounts; payment

A financial institution, on request, may pay sums on deposit in an account with a pay on death designation to:

1. One or more of the parties, whether or not another party is ~~disabled~~ A PARTY WITH DISABILITIES, incapacitated or deceased when the payment is requested and whether or not a party survives another party.

2. The beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties.

3. The personal representative or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account either as a party or beneficiary.

Sec. 33. Section 14-6224, Arizona Revised Statutes, is amended to read:

14-6224. Agency accounts; payment to designated agent

A financial institution on request of an agent under an agency designation for an account may pay to the agent sums on deposit in the account, whether or not a party is ~~disabled~~ A PARTY WITH DISABILITIES, incapacitated or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

Sec. 34. Section 14-6226, Arizona Revised Statutes, is amended to read:

14-6226. Financial institutions; discharge of claims; exception

A. A payment made pursuant to this article in accordance with the type of account discharges the financial institution from all claims for these amounts, whether or not the payment is consistent with the beneficial ownership of the account as between parties or beneficiaries or their successors. Payment may be made whether or not a party, beneficiary or agent ~~is disabled,~~ HAS DISABILITIES, IS incapacitated or deceased when payment is requested, received or made.

B. Protection under this section does not extend to payments made after a financial institution has received written notice from a party or from the deceased party's personal representative, surviving spouse or heir or devisee If this notice states that payments in accordance with the terms of the account, including one having an agency designation, should not be permitted and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party shall concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

C. A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.

D. Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.

Sec. 35. Section 14-10103, Arizona Revised Statutes, is amended to read:

14-10103. Definitions

In this chapter, unless the context otherwise requires:

1. "Action", with respect to an act of a trustee, includes a failure to act.

2. "Beneficiary" means a person who either:

(a) Has a present or future beneficial interest in a trust, vested or contingent.

(b) In a capacity other than that of a trustee, holds a power of appointment over trust property.

3. "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in section 14-10405, subsection A.

4. "Conservator" means a person appointed by the court to administer the estate of a minor or an adult.

5. "Distributee" means a person who receives property from a trust other than as a creditor or purchaser.

6. "Environmental law" means a federal, state or local law, rule, regulation or ordinance relating to protection of the environment.

7. "Guardian" means a person appointed by the court to make decisions regarding the support, care, education, health and welfare of a minor or an adult. Guardian does not include a guardian ad litem.

8. "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

9. "Internal revenue code" has the same meaning prescribed in section 43-105.

10. "Jurisdiction", with respect to a geographic area, includes a state or country.

11. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity.

12. "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable either:

(a) By a trustee and limited by an ascertainable standard.

(b) By a person other than in a fiduciary capacity and only on the consent of the trustee or a person holding an adverse interest.

13. "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest in anything that may be the subject of ownership.

14. "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(a) Is a distributee or permissible distributee of trust income or principal.

(b) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subdivision (a) of this paragraph terminated on that date.

(c) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

15. "Revocable", as applied to a trust or a portion of a trust, means revocable by a settlor without the consent of any person, including the trustee or a person who holds an interest that is either adverse or not adverse.

16. "Settlor" means a person, including a testator, who creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

17. "Special needs trust" means a trust established for the benefit of one or more ~~disabled~~ persons WITH DISABILITIES if one of the purposes of the trust, expressed in the trust instrument or implied from the trust instrument, is to allow the ~~disabled~~ person WITH A DISABILITY to qualify or continue to qualify for public, charitable or private benefits that might otherwise be available to the ~~disabled~~ person WITH A DISABILITY. The existence of one or more ~~nondisabled~~ remainder beneficiaries WITHOUT A DISABILITY of the trust shall not disqualify it as a special needs trust for the purposes of this paragraph. For the purposes of this paragraph, "~~disabled~~ person WITH A DISABILITY" means an individual who ~~is disabled~~ HAS A DISABILITY pursuant to 42 United States Code section 1382c.

18. "Spendthrift provision" means a term of a trust that restrains either voluntary or involuntary transfer of a beneficiary's interest.

19. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. State includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

20. "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

21. "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments to that trust.

22. "Trustee" includes an original, additional and successor trustee and a cotrustee.

Sec. 36. Section 15-808, Arizona Revised Statutes, is amended to read:

15-808. <u>Arizona online instruction; reports; definitions</u>

A. Arizona online instruction shall be instituted to meet the needs of pupils in the information age. The state board of education shall select traditional public schools and the state board for charter schools shall sponsor charter schools to be online course providers or online schools. The state board of education and the state board for charter schools shall jointly develop standards for the approval of online course providers and online schools based on the following criteria:

1. The depth and breadth of curriculum choices.

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

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

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

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

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

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

8. The services offered to ~~developmentally disabled~~ populations WITH DEVELOPMENTAL DISABILITIES.

9. The grade levels that will be served.

B. Each new school that provides online instruction shall provide online instruction on a probationary status. After a new school that provides online instruction has clearly demonstrated the academic integrity of its instruction through the actual improvement of the academic performance of its students, the school may apply to be removed from probationary status. The state board of education or the state board for charter schools shall remove from Arizona online instruction any probationary school that fails to clearly demonstrate improvement in academic performance within three years measured against goals in the approved application and the state's accountability system. The state board of education and the state board for charter schools shall review the effectiveness of each participating school and other information that is contained in the annual report prescribed in subsection D of this section. All pupils who participate in Arizona online instruction shall reside in this state. Pupils who participate in Arizona online instruction are subject to the testing requirements prescribed in chapter 7, article 3 of this title. On enrollment, the school shall notify the parents or guardians of the pupil of the state testing requirements. If a pupil fails to comply with the testing requirements and the school administers the tests pursuant to this subsection to less than ninety-five per cent of the pupils in Arizona online instruction, the pupil shall not be allowed to participate in Arizona online instruction.

C. The state board of education and the state board for charter schools shall develop annual reporting mechanisms for schools that participate in Arizona online instruction.

D. The department of education shall compile the information submitted in the annual reports by schools participating in Arizona online instruction.

The department of education shall submit the compiled report to the governor, the speaker of the house of representatives and the president of the senate by November 15 of each year.

E. Each school selected for Arizona online instruction shall ensure that a daily log is maintained for each pupil who participates in Arizona online instruction. The daily log shall describe the amount of time spent by each pupil participating in Arizona online instruction pursuant to this section on academic tasks. The daily log shall be used by the school district or charter school to qualify the pupils who participate in Arizona online instruction in the school's average daily attendance calculations pursuant to subsection F of this section.

F. If a pupil is enrolled in a school district or charter school and also participates in Arizona online instruction, the sum of the average daily membership, which includes enrollment as prescribed in section 15-901, subsection A, paragraph 1, subdivisions (a) and (b) and daily attendance as prescribed in section 15-901, subsection A, paragraph 5, for that pupil in the school district or charter school and in Arizona online instruction shall not exceed 1.0. If the pupil is enrolled in a school district or a charter school and also participates in Arizona online instruction and the sum of the daily membership or daily attendance for that pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between the school district, unless the school district is a joint technical education district subject to the apportionment requirements of section 15-393, or charter school and Arizona online instruction based on the percentage of total time that the pupil is enrolled or in attendance in the school district or charter school and Arizona online instruction. The uniform system of financial records shall include guidelines for the apportionment of the pupil enrollment and attendance as provided in this subsection. Pupils in Arizona online instruction do not incur absences for purposes of this subsection and may generate an average daily attendance of 1.0 for attendance hours during any hour of the day, during any day of the week and at any time between July 1 and June 30 of each fiscal year. For kindergarten programs and grades one through eight, average daily membership shall be calculated by dividing the instructional hours as reported in the daily log required in subsection E of this section by the applicable hourly requirements prescribed in section 15-901. For grades nine through twelve, average daily membership shall be calculated by dividing the instructional hours as reported in the daily log required in subsection E of this section by nine hundred. The average daily membership of a pupil who participates in online instruction shall not exceed 1.0. Average daily membership shall not be calculated on the one hundredth day of instruction for the purposes of this section. Funding shall be determined as follows:

1. A pupil who is enrolled full-time in Arizona online instruction shall be funded for online instruction at ninety-five per cent of the base support level that would be calculated for that pupil if that pupil were

enrolled as a full-time student in a school district or charter school that does not participate in Arizona online instruction. Charter additional assistance and district additional assistance shall be calculated in the same manner they would be calculated if the student were enrolled in a district or charter school that does not participate in Arizona online instruction.

2. A pupil who is enrolled part-time in Arizona online instruction shall be funded for online instruction at eighty-five per cent of the base support level that would be calculated for that pupil if that pupil were enrolled as a part-time student in a school district or charter school that does not participate in Arizona online instruction. Charter additional assistance and district additional assistance shall be calculated in the same manner they would be calculated if the student were enrolled in a district or charter school that does not participate in Arizona online instruction.

G. If the academic achievement of a pupil declines while the pupil is participating in Arizona online instruction, the pupil's parents, the pupil's teachers and the principal or head teacher of the school shall confer to evaluate whether the pupil should be allowed to continue to participate in Arizona online instruction.

H. To ensure the academic integrity of pupils who participate in online instruction, Arizona online instruction shall include multiple diverse assessment measures and the proctored administration of required state standardized tests.

I. For the purposes of this section:

1. "Full-time student" means:

(a) A student who is at least five years of age before September 1 of a school year and who is enrolled in a school kindergarten program that meets at least three hundred forty-six hours during the school year.

(b) A student who is at least six years of age before September 1 of a school year, who has not graduated from the highest grade taught in the school and who is regularly enrolled in a course of study required by the state board of education. For first, second and third grade students, the instructional program shall meet at least seven hundred twelve hours. For fourth, fifth and sixth grade students, the instructional program shall meet at least eight hundred ninety hours during the school year.

(c) Seventh and eighth grade students or ungraded students who are at least twelve, but under fourteen, years of age on or before September 1 and who are enrolled in an instructional program of courses that meets at least one thousand sixty-eight hours during the school year.

(d) For high schools, a student not graduated from the highest grade taught in the school district, or an ungraded student at least fourteen years of age on or before September 1, and who is enrolled in at least four courses throughout the year that meet at least nine hundred hours during the school year. A full-time student shall not be counted more than once for computation of average daily membership.

2. "Online course provider" means a school other than an online school that is selected by the state board of education or the state board for charter schools to participate in Arizona online instruction pursuant to this section and that provides at least one online academic course that is approved by the state board of education.

3. "Online school" means a school that provides at least four online academic courses or one or more online courses for the equivalent of at least five hours each day for one hundred eighty school days and that is a charter school that is sponsored by the state board for charter schools or a traditional public school that is selected by the state board of education to participate in Arizona online instruction.

4. "Part-time student" means:

(a) Any student who is enrolled in a program that does not meet the definition in paragraph 1 of this subsection shall be funded at eighty-five per cent of the base support level that would be calculated for that pupil if that pupil were enrolled as a part-time student in a school district or charter school that does not participate in Arizona online instruction.

(b) A part-time student of seventy-five per cent average daily membership shall be enrolled in at least three subjects throughout the year that offer for first, second and third grade students at least five hundred thirty-four instructional hours in a school year and for fourth, fifth and sixth grade students at least six hundred sixty-eight instructional hours in a school year. A part-time student of fifty per cent average daily membership shall be enrolled in at least two subjects throughout the year that offer for first, second and third grade students at least three hundred fifty-six instructional hours in a school year and for fourth, fifth and sixth grade students at least four hundred forty-five instructional hours in a school year. A part-time student of twenty-five per cent average daily membership shall be enrolled in at least one subject throughout the year that offers for first, second and third grade students at least one hundred seventy-eight instructional hours in a school year and for fourth, fifth and sixth grade students at least two hundred twenty-three instructional hours in a school year.

(c) For seventh and eighth grade students, a part-time student of seventy-five per cent average daily membership shall be enrolled in at least three subjects throughout the year that offer at least eight hundred one instructional hours in a school year. A part-time student of fifty per cent average daily membership shall be enrolled in at least two subjects throughout the year that offer at least five hundred thirty-four instructional hours in a school year. A part-time student of twenty-five per cent average daily membership shall be enrolled in at least one subject throughout the year that offers at least two hundred sixty-seven instructional hours in a school year.

(d) For high school students, a part-time student of seventy-five per cent average daily membership shall be enrolled in at least three subjects

throughout the year that offer at least six hundred seventy-five instructional hours in a school year. A part-time student of fifty per cent average daily membership shall be enrolled in at least two subjects throughout the year that offer at least four hundred fifty instructional hours in a school year. A part-time student of twenty-five per cent average daily membership shall be enrolled in at least one subject throughout the year that offers at least two hundred twenty-five instructional hours in a school year.

Sec. 37. Section 15-891, Arizona Revised Statutes, is amended to read:

15-891. Arizona scholarships for pupils with disabilities program; definitions

A. The Arizona scholarships for pupils with disabilities program is established to provide pupils with disabilities with the option of attending any public school of the pupil's choice or receiving a scholarship to any qualified school of the pupil's choice.

B. The parent of a public school pupil with a disability who is dissatisfied with the pupil's progress may request and receive from the state a scholarship for the child to enroll in and attend any qualified school in accordance with this section if both of the following apply:

1. The child has spent the prior school year in attendance at a public school in this state.

2. The parent has obtained acceptance for admission of the pupil to a qualified school that is eligible for the program under this article and has notified the school district of the request for a scholarship at least sixty days before the date of the first scholarship payment. The parental notification must be through a communication directly to the school district or through the department of education to the school district in a manner that creates a written or electronic record of the notification and the date of receipt of the notification.

C. This section does not apply to a pupil who is enrolled in the state educational system for committed youth pursuant to chapter 11.1 of this title.

D. A scholarship awarded pursuant to this article remains in force until the pupil returns to a public school or graduates from high school, except that the pupil's parent may remove the pupil from the qualified school at any time and place the pupil in another qualified school that is eligible for participation in the Arizona scholarships for pupils with disabilities program or in a public school as provided in this article.

E. Notwithstanding the enrollment policies or desegregation provisions prescribed in article 1.1 of this chapter, a school district or charter school shall enroll any child pursuant to this article.

F. For the purposes of this article:

1. "Pupil with a disability" means a child with a disability as defined in section 15-761 who has been issued an individualized education program as defined in section 15-761.

2. "Qualified school" means a nongovernmental primary school or secondary school or a preschool for ~~handicapped students~~ PUPILS WITH DISABILITIES that is located in this state and that does not discriminate on the basis of race, color, ~~handicap~~ DISABILITY, familial status or national origin.

Sec. 38. Section 15-905, Arizona Revised Statutes, is amended to read:

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

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

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

2. The total amount of revenues by source that will be necessary to meet the proposed budget of the school district, excluding property taxes. The governing board shall prepare the proposed budget and a summary of the proposed budget. Both documents shall be kept on file at the school district office and shall be made available to the public on request. Not later than July 5 of each year or not later than the publication of notice of the public hearing and board meeting required by this subsection, the governing board shall submit the proposed budget to the department of education, which shall prominently display this information about that school district on the website maintained by the department. If the school district maintains a website, the school district shall post a link to the website of the department of education where this information about the school district is posted. The auditor general in conjunction with the department of education shall prescribe the form of the summary of the proposed budget for use by governing boards. School district governing boards may include in the proposed budget any items or amounts that are authorized by legislation filed with the secretary of state and that will become effective during the budget year. If subsequent events prevent the legislation from becoming effective, school district governing boards must reduce their budgets by the amounts budgeted pursuant to the legislation that did not become effective.

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

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

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

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

information about that school district on the website maintained by the department. If the school district maintains a website, the school district shall post a link to the website of the department of education where this information about the school district is posted. On or before October 30, the superintendent of public instruction shall review the budget and notify the governing board if the budget is in excess of the general budget limit or the unrestricted capital budget limit. The governing board shall revise the budget as follows:

1. If the governing board receives notification that the budget exceeds the general budget limit or the unrestricted capital budget limit by one per cent of the general budget limit or one hundred thousand dollars, whichever is less, it shall adopt on or before December 15, after it gives notice and holds a public meeting in a similar manner as provided in subsections C and D of this section, a revised budget for the current year, which shall not exceed the general budget limit or the unrestricted capital budget limit.

2. If the governing board receives notification that the budget exceeds the general budget limit or the unrestricted capital budget limit by less than the amount prescribed in paragraph 1 of this subsection, the governing board shall adjust the budget and expenditures so as not to exceed the general budget limit or the unrestricted capital budget limit for the current year.

3. On or before December 18, the governing board shall file the revised budget it adopts with the county school superintendent who shall immediately transmit a copy to the board of supervisors. Not later than December 18, the budget as revised shall be submitted electronically to the superintendent of public instruction. School districts that are subject to section 15-914.01 are not required to send a copy of revised budgets to the county school superintendent. Procedures for adjusting expenditures or revising the budget shall be as prescribed in the uniform system of financial records.

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

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

(a) The maintenance and operation section.

(b) The capital outlay section.

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

G. The governing board may authorize the expenditure of monies budgeted within the maintenance and operation section of the budget for any

subsection within the section in excess of amounts specified in the adopted budget only by action taken at a public meeting of the governing board and if the expenditures for all subsections of the section do not exceed the amount budgeted as provided in this section.

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

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

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

3. Federal assistance, excluding title VIII of the elementary and secondary education act of 1965 monies.

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

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

K. The governing board may include title VIII of the elementary and secondary education act of 1965 assistance allocated for children with disabilities, children with specific learning disabilities, children residing

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

L. The department of education shall notify the state board of education if expenditures by any school district exceed the general budget limit prescribed in section 15-947, subsection C, the unrestricted capital budget limit, the school plant fund limits prescribed in section 15-1102, subsection B, the maintenance and operation section of the budget or the capital outlay section of the budget. If the expenditures of any school district exceed these limits or sections of the budget without authorization as provided in section 15-907, and if the state board of education determines that the equalization assistance for education received by the school district as provided in section 15-971 does not conform with statutory requirements, the state board of education shall reduce the state aid for equalization assistance for education for the school district computed as provided in section 15-971 during the fiscal year subsequent to the fiscal year in which the excess equalization assistance for education was received by an amount equal to the excess equalization assistance for education, except that in case of hardship to the school district, the superintendent of public instruction may approve reductions partly in the first subsequent year and partly in the second subsequent year. If the state board of education determines that the equalization assistance for education received by the school district conforms with statutory requirements, the state board of education shall not reduce the district's equalization assistance for education pursuant to this subsection but the district shall reduce the budget limits as required in subsection M of this section. A school district

that disagrees with the department of education's determination regarding an excess expenditure under this subsection may request a hearing before the state board of education.

M. The governing board of a school district shall reduce the general budget limit or the unrestricted capital budget limit for the year subsequent to the year in which the expenditures were in excess of the applicable limit or section of the budget by the amount determined in subsection L of this section, except that in case of hardship to the school district, the superintendent of public instruction may approve reductions partly in the first subsequent year and partly in the second subsequent year. The reduction in the limit is applicable to each school district that has exceeded the general budget limit, the unrestricted capital budget limit or a section of the budget even if the reduction exceeds the state aid for equalization assistance for education for the school district.

N. Except as provided in section 15-916, no expenditure shall be made by any school district for a purpose not included in the budget or in excess of the aggregate budget limit prescribed in this section, except that if no budget has been adopted, from July 1 to July 15 the governing board may make expenditures if the total of the expenditures does not exceed ten per cent of the prior year's aggregate budget limit. Any expenditures made from July 1 to July 15 and before the adoption of the budget shall be included in the total expenditures for the current year. No expenditure shall be made and no debt, obligation or liability shall be incurred or created in any year for any purpose itemized in the budget in excess of the amount specified for the item irrespective of whether the school district at any time has received or has on hand funds in excess of those required to meet the expenditures, debts, obligations and liabilities provided for under the budget except expenditures from cash controlled funds as defined by the uniform system of financial records and except as provided in section 15-907 and subsection G of this section. This subsection does not prohibit any school district from prepaying insurance premiums, magazine subscriptions or officiating services, or from prepaying any item that is normally prepaid in order to procure the service or to receive a discounted price for the service, as prescribed by the uniform system of financial records.

O. The governing board of a school district that is classified as a heavily impacted school district having twenty per cent or more pupils pursuant to 20 United States Code section 238(d)1(A) may determine its eligibility to increase the amount that may be included in determining the general budget limit as provided in subsection K of this section and may increase the amount as follows:

1. For fiscal year 1988-1989:

(a) Multiply one thousand ninety-four dollars by the number of children with disabilities or children with specific learning disabilities, excluding children who also reside on Indian lands, reported to the division

of impact aid, United States department of education in the district's application for fiscal year 1987-1988.

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

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

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

(e) If the amount of title VIII of the elementary and secondary education act of 1965 assistance as provided in subsection K of this section is less than the sum determined in subdivision (d) of this paragraph, the district is eligible to use the provisions of this subsection.

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

3. If the district is eligible to use the provisions of this subsection, subtract the amount of title VIII of the elementary and secondary education act of 1965 assistance determined in subsection K of this section from the sum determined in paragraph 1, subdivision (d) of this subsection. The difference is the increase in the amount that may be included in determining the general budget limit as provided in subsection K of this section, if including this amount does not increase the district's primary tax rate for the budget year. If the amount of title VIII of the elementary and secondary education act of 1965 assistance determined in subsection K of this section is adjusted for the current year, the increase determined in this paragraph shall be recomputed using the adjusted amount and the recomputed increase shall be reported to the department of education by May 15 on a form prescribed by the department of education.

4. If a district uses the provisions of this subsection, the district is not required to adjust its budget for the current year based on adjustments in the estimated amount of title VIII of the elementary and secondary education act of 1965 assistance as provided in subsection K of this section.

P. A school district, except for an accommodation school, that applies for title VIII of the elementary and secondary education act of 1965 assistance during the current year may budget an amount for title VIII of the elementary and secondary education act of 1965 administrative costs for the budget year. The amount budgeted for title VIII of the elementary and

secondary education act of 1965 administrative costs is exempt from the revenue control limit and may not exceed an amount determined for the budgeted year as follows:

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

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

3. Determine the title VIII of the elementary and secondary education act of 1965 revenues available by subtracting the amount of title VIII of the elementary and secondary education act of 1965 assistance used to increase the general budget limit as provided in subsections K and O of this section for the current fiscal year from the total amount of title VIII of the elementary and secondary education act of 1965 revenues received in the current fiscal year.

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

(a) Determine the sum of the following:

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

(ii) 1.25 hours for each high impact pupil who is ~~disabled~~ A PERSON WITH A DISABILITY or has specific learning disabilities.

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

(iv) 0.31 hours for each low impact pupil who is ~~disabled~~ A PERSON WITH A DISABILITY or has specific learning disabilities.

(b) For the purposes of this paragraph:

(i) "High impact pupil" means a pupil who resides on Indian lands or a pupil who resides on federal property or in low rent housing and whose parent is employed on federal property or low rent housing property or is on active duty in uniformed service, as provided in title VIII of the elementary and secondary education act of 1965, section 8003(a) (20 United States Code section 7703) and as reported in the application for title VIII of the elementary and secondary education act of 1965 assistance in the current year.

(ii) "Low impact pupil" means a pupil who resides on nonfederal property and has a parent who is employed on federal property or low rent housing property or is on active duty in a uniformed service or a pupil who resides on federal property or in low rent housing and who does not have a parent who is employed on federal property or low rent housing property or is on active duty in uniformed service, as provided in title VIII of the elementary and secondary education act of 1965, section 8003(a) (20 United

States Code section 7703) and as reported in the application for title VIII of the elementary and secondary education act of 1965 assistance in the current year.

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

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

7. Add to the amount determined in paragraph 6 of this subsection the amount, if any, to be expended by the school district in the budget year through an intergovernmental agreement with other school districts or the department of education to provide title VIII of the elementary and secondary education act of 1965 technical assistance to participating districts.

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

9. The amount determined in paragraph 8 of this subsection is the maximum amount that may be budgeted for title VIII of the elementary and secondary education act of 1965 administrative costs for the budget year as provided in this subsection.

10. If the governing board underestimated the amount that may be budgeted for title VIII of the elementary and secondary education act of 1965, section 8007 administrative costs for the current year, the board may adjust the general budget limit and the budget before May 15. If the governing board overestimated the amount that may be budgeted for title VIII of the elementary and secondary education act of 1965 administrative costs for the current year, the board shall adjust the general budget limit and the budget before May 15.

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

R. Notwithstanding any other law, if a school district receives assistance pursuant to title VIII of the elementary and secondary education act of 1965, the school district shall establish a local level fund

designated as the impact aid fund and deposit the impact aid monies received in the fund. The school district shall separately account for monies in the fund and shall not combine monies in the fund with any other source of local, state or federal assistance. Monies in the fund shall be expended pursuant to federal law only for the purposes allowed by this title. The school district shall account for monies in the fund according to the uniform system of financial records as prescribed by the auditor general. The superintendent of public instruction shall separately account for monies in each school district's impact aid fund, if an impact aid fund is established, in the annual report required by section 15-255. Monies in the fund are considered federal monies and are not subject to legislative appropriation.

S. For the purposes of this section, "title VIII of the elementary and secondary education act of 1965 assistance" means, for the current year, an amount equal to the final determination of title VIII of the elementary and secondary education act of 1965 assistance for the fiscal year preceding the current year as confirmed by the division of impact aid, United States department of education or, if a final determination has not been made, the amount estimated by the superintendent of public instruction as confirmed by the division of impact aid, United States department of education and, for the budget year, an amount equal to the determination of title VIII of the elementary and secondary education act of 1965 assistance for the fiscal year preceding the budget year as estimated by the superintendent of public instruction.

Sec. 39. Section 15-948, Arizona Revised Statutes, is amended to read:

15-948. Adjustment for growth in student count

A. Any school district, after the first one hundred days or two hundred days in session, as applicable, of the current year, may determine if it is eligible to increase its revenue control limit and district support level for the current year due to growth in the student population as follows:

1. Determine the student count used for calculating the base support level for the current year.

2. Determine the average daily membership or adjusted average daily membership, whichever is applicable, through the first one hundred days or two hundred days in session, as applicable, of the current year.

3. Subtract the amount determined in paragraph 1 of this subsection from the amount determined in paragraph 2 of this subsection.

4. If the amount determined in paragraph 2 of this subsection is greater than the amount determined in paragraph 1 of this subsection, the governing board of the school district may compute an increase to its revenue control limit and district support level for the current year.

B. A school district, after the first one hundred days or two hundred days in session, as applicable, of the current year, may determine if it is eligible to compute an increase to its revenue control limit for the current year due to growth in the number of pupils in the group B categories of

moderate or severe intellectual disability, visual impairment, hearing impairment, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairment, preschool severe delay and ~~emotionally disabled~~ pupils WITH EMOTIONAL DISABILITIES enrolled in private special education programs or in school district programs for pupils with severe disabilities as follows:

1. Determine the weighted student count for all group B children with disabilities used for calculating the base support level for the current year.

2. Determine the weighted average daily membership for all group B children with disabilities through the first one hundred days or two hundred days in session, as applicable, of the current year.

3. Subtract the amount determined in paragraph 1 of this subsection from the amount determined in paragraph 2 of this subsection.

4. If the amount determined in paragraph 2 of this subsection is greater than the amount determined in paragraph 1 of this subsection, the governing board of the school district may compute an increase to its revenue control limit and district support level for the current year by using the amount determined in paragraph 3 of this subsection for the weighted student count and the base level for the district for the current year.

C. If a school district meets the criteria specified in subsection A or B of this section, or both, the governing board of the school district, after notice is given and a public hearing held as provided in section 15-905, subsection D, at any time before May 15 may revise its budget to include the increase in its revenue control limit and district support level for the current year utilizing the procedure prescribed in subsection A or B of this section, or both. Not later than May 18, the budget as revised shall be submitted electronically to the superintendent of public instruction.

D. If the revised budget is adopted by the governing board at the public hearing and submitted electronically as provided in subsection C of this section, the school district shall receive state aid based on the adjusted revenue control limit or the adjusted district support level in the manner specified in section 15-971, except that in no event shall the school district receive less state aid than it would have received if it had not used this section.

E. If the adjusted revenue control limit results in an expenditure of funds in excess of school district revenues for the current year, the county school superintendent shall include within the revenue estimate for the budget year funds necessary to meet the liabilities incurred by the school district in the current year in excess of revenues received for the current year.

Sec. 40. Section 15-1201, Arizona Revised Statutes, is amended to read:

15-1201. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "Fund" means the special education fund established by section 15-1182.

2. "Institution" means the Arizona state schools for the deaf and the blind, the Arizona training program facilities as provided in section 36-551 and the Arizona state hospital.

3. "Place" or "placement" means placement of a person in an institution, as defined in this section, for special education only or for special education and residential and custodial care.

4. "Special education" means the adjustment of the environmental factors, modification of the course of study and adaptation of teaching methods, materials and techniques to provide educationally for those children who are at least three but not more than twenty-one years of age and who are gifted or ~~disabled~~ HAVE A DISABILITY to such an extent that they do not profit from the regular course of study or need special education services in order to profit. Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is spoken primarily or exclusively shall not be considered a sufficient handicap to require special education.

Sec. 41. Section 15-1325, Arizona Revised Statutes, is amended to read:

15-1325. Superintendent and other personnel; appointment; compensation; term of employment; qualifications; nonretention notice

A. There shall be a superintendent of the schools who shall be the executive officer. The superintendent shall be appointed by the board of directors, and the board shall issue one, two or three year contracts for the superintendent. The superintendent is eligible to receive compensation pursuant to section 38-611. The board of directors shall designate the management and supervisory positions. The superintendent, with the approval of and acting on behalf of the board, shall issue one, two or three year contracts for the management and supervisory positions designated by the board pursuant to this section. Compensation for persons issued contracts pursuant to this section shall be paid according to a range of compensation approved by the board of directors.

B. The superintendent and the management and supervisory staff, except for the persons contracted for personnel service and business and finance service shall be persons who are competent educators of the deaf or the blind, or ~~the multiply disabled~~ PERSONS WITH MULTIDISABILITIES and THE sensory impaired, and who are acquainted with school management and class instruction of the deaf or the blind, or ~~the multiply disabled~~ PERSONS WITH MULTIDISABILITIES and THE sensory impaired. A person is eligible to be the superintendent, or hold a position on the management or supervisory staff except for a person contracted for personnel service and business and finance service if the person has had actual experience as a teacher of the deaf or

the blind or ~~the multiply disabled~~ PERSONS WITH MULTIDISABILITIES and THE sensory impaired.

C. The board of directors shall establish a system for the evaluation of the performance of the superintendent in consultation with the administration of the schools. The superintendent shall establish a system for the evaluation of the performance of persons contracted pursuant to this section in consultation with the staff of the schools.

D. On or before April 15 preceding the expiration of the superintendent's employment contract, the board shall give written notice to the superintendent of the board's intention to offer or not to offer a new employment contract. On or before April 15 preceding the expiration of the contract of a person contracted by the superintendent, acting on behalf of the board of directors pursuant to this section, the superintendent shall give written notice to the person of the board's intention to offer or not to offer the person a new employment contract. If the board decides to offer the superintendent a new employment contract, the board shall offer the new employment contract on or before May 15 preceding the expiration of the superintendent's current employment contract. If the board decides to offer a new employment contract to a person contracted pursuant to this section, the superintendent, acting on behalf of the board, shall offer the new employment contract on or before May 15 preceding the expiration of the current employment contract. The person offered a contract pursuant to this subsection shall accept the contract by signing and returning it to the board of directors within thirty days or the offer is deemed refused. If the person adds written terms or conditions to the employment contract offered, the person fails to accept the employment contract.

E. Notice of the board of directors' intention not to reemploy the superintendent or a person contracted pursuant to this section shall be delivered to the superintendent or the person contracted by one of the following:

1. The superintendent, in person, acting on behalf of the board.

2. Certified mail, postmarked on or before the deadline prescribed in subsection D of this section and directed to the place of residence as recorded in the agency's records.

Sec. 42. Section 15-1371, Arizona Revised Statutes, is amended to read:

15-1371. <u>Equalization assistance for state educational system for committed youth; state education fund for committed youth</u>

A. The superintendent of the state educational system for committed youth shall calculate a base support level as prescribed in section 15-943 and district additional assistance as prescribed in section 15-961 for the educational system established pursuant to section 41-2831, except that:

1. Notwithstanding section 15-901:

(a) The student count shall be determined using the following definitions:

(i) "Daily attendance" means days in which a pupil attends an educational program for a minimum of two hundred forty minutes not including meal and recess periods. Attendance for one hundred twenty or more minutes but fewer than two hundred forty minutes shall be counted as one-half day's attendance.

(ii) "Fractional student" means a pupil enrolled in an educational program of one hundred twenty or more minutes but fewer than two hundred forty minutes a day not including meal and recess periods. A fractional student shall be counted as one-half of a full-time student.

(iii) "Full-time student" means a pupil enrolled in an educational program for a minimum of two hundred forty minutes a day not including meal and recess periods.

(b) "~~Seriously emotionally disabled~~ Pupils WITH SERIOUS EMOTIONAL DISABILITIES enrolled in a school district program as provided in section 15-765" includes ~~seriously emotionally disabled~~ pupils WITH SERIOUS EMOTIONAL DISABILITIES enrolled in the department of juvenile corrections school system.

2. All pupils shall be counted as if they were enrolled in grades nine through twelve.

3. The teacher experience index is 1.00.

4. The base support level shall be calculated using the base level multiplied by 1.0, except that the state educational system for committed youth is also eligible beginning with fiscal year 1992-1993 for additional teacher compensation monies as specified in section 15-952.

5. Section 15-943, paragraph 1 does not apply.

B. The superintendent may use sections 15-855 and 15-948 in making the calculations prescribed in subsection A of this section, except that for the 1992-1993 fiscal year rapid decline shall not be used. The superintendent of the system and the department of education shall prescribe procedures for determining average daily membership.

C. Equalization assistance for the state educational system for committed youth for the budget year is determined by adding the amount of the base support level and district additional assistance for the budget year calculated as prescribed in subsection A of this section.

D. The state educational system for committed youth shall not receive twenty-five per cent of the equalization assistance unless it is accredited by the north central association of colleges and secondary schools.

E. The state education fund for committed youth is established. Fund monies shall be used for the purposes of the state educational system for committed youth, and notwithstanding section 35-173, monies appropriated to the fund shall not be transferred to or used for any program not within the state educational system for committed youth. State equalization assistance for the state educational system for committed youth as determined in

subsection A of this section, other state and federal monies received from the department of education for the state educational system for committed youth and monies appropriated for the state educational system for committed youth, except monies appropriated pursuant to subsection F of this section, shall be deposited in the fund. The state treasurer shall maintain separate accounts for fund monies if the separate accounts are required by statute or federal law.

F. The department of juvenile corrections may seek appropriations for capital needs for land, buildings and improvements, including repairs and maintenance, required to maintain the state educational system for committed youth.

G. The state board of education shall apportion state aid and deposit it, pursuant to sections 35-146 and 35-147, in the state education fund for committed youth in an amount as determined by subsection A of this section. The apportionments shall be as follows:

1. On July 1, one-third of the total amount to be apportioned during the fiscal year.

2. On October 15, one-twelfth of the total amount to be apportioned during the fiscal year.

3. On December 15, one-twelfth of the total amount to be apportioned during the fiscal year.

4. On January 15, one-twelfth of the total amount to be apportioned during the fiscal year.

5. On February 15, one-twelfth of the total amount to be apportioned during the fiscal year.

6. On March 15, one-twelfth of the total amount to be apportioned during the fiscal year.

7. On April 15, one-twelfth of the total amount to be apportioned during the fiscal year.

8. On May 15, one-twelfth of the total amount to be apportioned during the fiscal year.

9. On June 15, one-twelfth of the total amount to be apportioned during the fiscal year.

H. In conjunction with the department of administration, the superintendent of the state educational system for committed youth shall establish procedures to account for the receipt and expenditure of state education fund for committed youth monies by modifying the current accounting system used for state agencies as necessary.

Sec. 43. Section 15-1650.01, Arizona Revised Statutes, is amended to read:

15-1650.01. <u>Task force for retraining military veterans with disabilities</u>

A. The task force for retraining ~~disabled~~ military veterans WITH DISABILITIES is established under the Arizona board of regents consisting of the following members:

1. One person who is appointed by the president of Arizona state university.

2. One person who is appointed by the president of the university of Arizona.

3. One person who is appointed by the president of northern Arizona university.

4. Two persons who are appointed by the governor, one of ~~which~~ WHOM must be a community college representative.

5. One person who is appointed by the president of the senate.

6. One person who is appointed by the speaker of the house of representatives.

B. The task force shall elect a chairperson from among the members of the task force. The task force shall elect a new chairperson each calendar year. A quorum shall consist of a majority of the members. The task force shall meet at least once each calendar quarter.

C. The members of the task force serve at the pleasure of the appointing authority.

D. The Arizona board of regents shall provide staff support, assistance and resources to the task force.

E. Task force members are not eligible to receive compensation.

F. The task force shall:

1. Research and collect information on the availability of educational programs to retrain ~~disabled~~ military veterans WITH DISABILITIES who are unable to return to their previous occupations.

2. Communicate and publicize the availability of educational programs to retrain ~~disabled~~ military veterans WITH DISABILITIES who are unable to return to their previous occupations.

3. Act as a coordinating entity between ~~disabled~~ military veterans WITH DISABILITIES who are unable to return to their previous occupations, public educational institutions, private educational institutions, local government agencies and programs, state government agencies and programs, including the ~~Arizona~~ department of veterans' services and benefit counselors employed by the ~~Arizona~~ department of veterans' services, federal government agencies and programs, including the United States department of veterans affairs and counselors employed by the United States department of veterans affairs, private organizations and nonprofit organizations.

4. Examine best practices of other states in dealing with the retraining of ~~disabled~~ military veterans WITH DISABILITIES who are unable to return to their previous occupations.

5. Provide a general assessment of the extent to which the universities and community colleges in this state have reached out to ~~disabled~~ military veterans WITH DISABILITIES who are unable to return to their previous occupations.

6. Submit an annual report on or before December 1 ~~of each year~~ regarding the task force's activities to the governor, the speaker of the

house of representatives and the president of the senate. Copies of this report shall be provided to the secretary of state and the Arizona state library, archives and public records.

Sec. 44. Section 15-1808, Arizona Revised Statutes, is amended to read:

15-1808. Tuition waiver for child or spouse of peace officer, correctional officer, firefighter, emergency paramedic, national guard member or member of the United States armed forces killed in the line of duty; national guard members with disabilities; United States armed forces members with disabilities; definitions

A. The board of regents, after verification by the Arizona peace officers memorial board, by the Arizona fire fighters and emergency paramedics memorial board, by the adjutant general of the national guard or by the Arizona department of veterans' services that a person is a child or a spouse of a peace officer, correctional officer, fire fighter, emergency paramedic, national guard member or member of the United States armed forces who was a resident of the state of Arizona or stationed in Arizona and who was killed in the line of duty or who died from injuries suffered in the line of duty while traveling to or from duty, shall provide the person who qualifies under subsection B of this section and who otherwise meets the qualifications for admission with a tuition waiver scholarship at any university under the jurisdiction of the board. A district as defined in section 15-1401, after verification by the Arizona peace officers memorial board, by the Arizona fire fighters and emergency paramedics memorial board, by the adjutant general of the national guard or by the Arizona department of veterans' services that a person is the child or the spouse of a peace officer, correctional officer, ~~fire fighter~~ FIREFIGHTER, emergency paramedic, national guard member or member of the United States armed forces who was a resident of Arizona or stationed in Arizona and who was killed in the line of duty or who died from injuries suffered in the line of duty while traveling to or from duty, shall provide the person who qualifies under subsection B of this section and who otherwise meets the qualifications for admission with a tuition waiver scholarship at any community college under the jurisdiction of the district.

B. The tuition waiver scholarships shall be limited to children who are thirty years of age or younger or a spouse who has not remarried and shall be limited for a spouse or for any one child to no more than sixty-four credit hours at Arizona community colleges and a total number of credits including any transfer credits from an Arizona community college equal to the number of credits required for a baccalaureate degree at Arizona universities for that student's initially declared course of study.

C. A member of the Arizona national guard who received a purple heart citation on or after September 11, 2001 or a former member of the Arizona

national guard who was medically discharged from the Arizona national guard due to an injury or disability suffered during status under title 10, United States Code, in weekend training status, in annual training status or in response to a state of emergency declared by the governor is eligible for a tuition waiver scholarship provided for in this section.

D. The board of regents, after verification by the Arizona department of veterans' services that a person is a member or former member of the United States armed forces who received a purple heart citation, who was a resident of the state of Arizona or was stationed in Arizona at the time of the injury that resulted in the purple heart citation and whose disability rating determined by the United States department of veterans affairs is fifty per cent or more, shall provide the person who otherwise meets the qualifications for admission with a tuition waiver scholarship at any university under the jurisdiction of the board. A district as defined in section 15-1401, after verification by the Arizona department of veterans' services that a person is a member or former member of the United States armed forces who received a purple heart citation, who was a resident of the state of Arizona or was stationed in Arizona at the time of the injury that resulted in the purple heart citation and whose disability rating determined by the United States department of veterans affairs is fifty per cent or more, shall provide the person who otherwise meets the qualifications for admission with a tuition waiver scholarship at any community college under the jurisdiction of the district. A person who is convicted of a felony is ineligible for a tuition waiver scholarship provided for in this subsection.

E. For the purposes of this section:

1. "Correctional officer" means a person, other than an elected official, who is employed by this state or a county, city or town and who is responsible for the supervision, protection, care, custody or control of inmates in a state, county or municipal correctional institution, including counselors but excluding secretarial, clerical and professionally trained personnel.

2. "Emergency paramedic" means a person who has been trained in an emergency paramedic training program certified by the director of the department of health services or in an equivalent training program and who is certified by the director of the department of health services to render services pursuant to section 36-2205.

3. ~~"Fire fighter"~~ "FIREFIGHTER" means a professional ~~fire fighter~~ FIREFIGHTER who is a member of a state, federal, tribal, city, county, district or private fire department.

4. "Peace officers" means sheriffs of counties, constables, marshals, police officers of cities and towns, commissioned personnel of the department of public safety and police officers appointed by community college district governing boards or the Arizona board of regents who have received a certificate from the Arizona peace officer standards and training board, and

other state, federal, tribal, city or county officers vested by law with a duty to maintain public order and make arrests.

Sec. 45. Section 15-2401, Arizona Revised Statutes, is amended to read:

15-2401. Definitions

In this chapter, unless the context otherwise requires:

1. "Curriculum" means a complete course of study for a particular content area or grade level, including any supplemental materials required by the curriculum.

2. "Department" means the department of education.

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

4. "Parent" means a resident of this state who is the parent or legal guardian of a qualified student.

5. "Qualified school" means a nongovernmental primary or secondary school or a preschool for ~~handicapped students~~ PUPILS WITH DISABILITIES that is located in this state and that does not discriminate on the basis of race, color or national origin.

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

(a) Is, or if the child is currently eligible to attend kindergarten, the department determines would be, any of the following:

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

(ii) Identified by a school district as a child with a disability as defined in section 15-761.

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

(iv) Attending a school or school district that has been assigned a letter grade of D or F pursuant to section 15-241.

(v) A previous recipient of a scholarship issued pursuant to section 15-891 or this section.

(vi) A child of a parent who is a member of the armed forces of the United States and who is on active duty.

(vii) A child with a guardian who is a member of the armed forces of the United States and who is on active duty.

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

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

(b) And who meets any of the following requirements:

(i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and who transferred from a governmental primary or

secondary school under a contract to participate in an empowerment scholarship account.

(ii) Previously participated in the empowerment scholarship account program.

(iii) Received a scholarship under section 43-1505 and who continues to attend a qualified school.

(iv) Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to section 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to section 43-1505 and who continues to attend a qualified school.

(v) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state.

7. "Treasurer" means the office of the state treasurer.

Sec. 46. Section 16-549, Arizona Revised Statutes, is amended to read:

16-549. Special election boards; procedure for voting ill or electors with disabilities; expenses

A. The county recorder or other officer in charge of elections, for the purpose of making it possible for qualified electors who are ill or ~~disabled~~ HAVE A DISABILITY to vote, may appoint such number of special election boards as needed. In a partisan election, each such board shall consist of two members, one from each of the two political parties which cast the highest number of votes in the state in the last preceding general election. The county chairman of each such party shall furnish, within sixty days prior to the election day, the county recorder or other officer in charge of elections with a list of names of qualified electors within the chairman's political party, and such additional lists as may be required, from which the county recorder or other officer in charge of elections shall appoint members to such special election boards. The county recorder or other officer in charge of elections may refuse for cause to appoint or may for cause remove a member of this board. A person who is a candidate for an office other than precinct committeeman is not eligible to serve on the special election board for that election.

B. Members of special election boards appointed under the provisions of this section shall be reimbursed for travel expenses in the manner provided by law and shall also receive such compensation as the board of supervisors or the governing body prescribes, all of which shall be paid by the county or other political subdivision.

C. In lieu of the mailed early ballot procedure, any qualified elector who is confined as the result of a continuing illness or physical disability and is, therefore, not able to go to the polls on the day of the next election and who does not wish to vote by the mailed early ballot procedure, may make a verbal or a signed written request to the county recorder or other officer in charge of elections to have a ballot personally delivered to the

elector by the special election board at the elector's place of confinement within the county or other political subdivision. The ballot shall be delivered to the elector in person by a special election board as provided in this section. Such requests must be made by 5:00 p.m. on the second Friday before the election.

D. Qualified electors who become ill or ~~disabled~~ BECOME A PERSON WITH A DISABILITY after the second Friday before the election may nevertheless request personal ballot delivery pursuant to this section, and the county recorder or other officer in charge of elections shall when possible honor such requests up to and including the last day before the election. Qualified electors who are admitted to a hospital after 5:00 p.m. on the second Friday preceding the election and before 5:00 p.m. on election day may request the county recorder or other officer in charge of elections to provide a special election board with a ballot at the elector's place of confinement. If the county recorder or other officer in charge of elections is able to accommodate the request, the voted ballot of the elector shall be sealed in an envelope and shall be processed as a provisional ballot pursuant to section 16-584.

E. The manner and procedure of voting shall be as provided in section 16-548, except that the marked ballot in the sealed envelope shall be handed by the elector to the special election board and shall be delivered by the board to the county recorder or other officer in charge of elections.

Sec. 47. Section 16-581, Arizona Revised Statutes, is amended to read:

16-581. Elderly persons; persons with disabilities; inaccessible polling places; definitions

A. If the board of supervisors determines that a polling place is inaccessible to elderly PERSONS or ~~handicapped~~ persons WITH DISABILITIES, it shall provide for alternative voting according to procedures established by the chief election officer of the state pursuant to the voting accessibility for the elderly and handicapped act (P.L. 98-435; 98 Stat. 1678, 1984; 42 United States Code section 1973).

B. For the purposes of this section:

1. "Elderly" means sixty-five years of age or older.

2. ~~"Handicapped"~~ "PERSONS WITH DISABILITIES" means ~~having~~ A PERSON WHO HAS a temporary or permanent physical disability that substantially restricts or limits ~~a~~ THE person's access to polling places.

Sec. 48. Section 17-332, Arizona Revised Statutes, is amended to read:

17-332. Form and contents of license; duplicate licenses; period of validity

A. Licenses and license materials shall be prepared by the department and may be furnished and charged to dealers authorized to issue licenses. The license shall be issued in the name of the department. Except as provided by rule adopted by the commission, each license shall be signed by the licensee in ink on the face of the license and any license not signed is invalid. With each license authorizing the taking of big game the department

shall provide such tags as the commission may prescribe, which the licensee shall attach to the big game animal in such manner as prescribed by the commission. The commission shall limit the number of big game permits issued to nonresidents in a random drawing to ten per cent or fewer of the total hunt permits, but in extraordinary circumstances, at a public meeting the commission may increase the number of permits issued to nonresidents in a random drawing if, on separate roll call votes, the members of the commission unanimously:

1. Support the finding of a specifically described extraordinary circumstance.

2. Adopt the increased number of nonresident permits for the hunt.

B. The commission shall issue with each license a shipping permit entitling the holder of the license to a shipment of game or fish as provided by article 4 of this chapter.

C. It is unlawful, except as provided by the commission, for any person to apply for or obtain in any one license year more than one original license permitting the taking of big game. A duplicate license or tag may be issued by the department or by a license dealer if the person requesting such license or tag furnishes the information deemed necessary by the commission.

D. No license or permit is transferable, nor shall such license or permit be used by anyone except the person to whom such license or permit was issued, except that:

1. A person may transfer the person's big game permit or tag to a qualified organization for use by a minor child who has a life-threatening medical condition or by a minor child who has a permanent physical disability. The commission may prescribe the manner and conditions of transferring and using permits and tags under this paragraph. If a ~~physically disabled~~ child WITH A PHYSICAL DISABILITY is under fourteen years of age, the child must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director. For the purposes of this paragraph:

(a) "Disability" means a permanent physical impairment that substantially limits one or more of the child's major life activities requiring the assistance of another person or a mechanical device for physical mobility.

(b) "Qualified organization" means a nonprofit organization that is qualified under section 501(c)(3) of the United States internal revenue code and that affords opportunities and experiences to children with life-threatening medical conditions or with physical disabilities.

2. A parent, grandparent or legal guardian may allow the parent's, grandparent's or guardian's minor child or minor grandchild to use the parent's, grandparent's or guardian's big game permit or tag to take big game pursuant to the following requirements:

(a) The parent, grandparent or guardian must transfer the permit or tag to the child in a manner prescribed by the commission.

(b) The parent or guardian must accompany the child in the field or, if a grandparent allows a minor grandchild to use the grandparent's permit or tag, the grandparent, the parent or the child's guardian must accompany the child in the field.

(c) The child must possess a valid hunting license and, if under fourteen years of age, must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director.

(d) Any big game that is taken counts toward the child's bag limit.

E. No refunds may be made for the purchase of a license or permit.

F. Licenses are valid for a license year as prescribed in rule by the commission. Lifetime licenses and benefactor licenses are valid for the lifetime of the licensee.

Sec. 49. Section 20-294, Arizona Revised Statutes, is amended to read:

20-294. Temporary licensing

A. The director may issue a temporary insurance producer license for not more than one hundred eighty days without requiring an examination if the director deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

1. To the surviving spouse or court appointed personal representative of a licensed insurance producer who dies or becomes ~~mentally or physically disabled~~ A PERSON WITH A MENTAL OR PHYSICAL DISABILITY to allow adequate time for the sale of the insurance business owned by the producer, for the recovery of the producer and return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business.

2. To a member or employee of a business entity that is licensed as an insurance producer on the death or disability of an individual who is the designated producer on the business entity application or license.

3. To the designee of a licensed insurance producer who enters active service in the armed forces of the United States.

B. By order the director may impose conditions or limitations on the authority of any temporary licensee in any way the director deems necessary to protect insureds and the public, including requiring the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and who assumes responsibility for all acts of the temporary licensee. Unless the director imposes conditions or limitations pursuant to this subsection, a temporary licensee has the same rights and privileges prescribed in this article for an insurance producer.

C. By order the director may summarily revoke a temporary license if the interests of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

Sec. 50. Section 20-505, Arizona Revised Statutes, is amended to read:

20-505. Liabilities

In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

1. The amount of its capital stock outstanding, if any.

2. The amount, estimated consistent with the provisions of this title, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

3. With reference to life and disability insurance and annuity contracts:

(a) The amount of reserves on life insurance policies and annuity contracts in force, including disability benefits for both active ~~and disabled~~ lives AND LIVES WITH DISABILITIES and accidental death benefits, in or supplementary thereto, and disability insurance, valued according to the tables of mortality, tables of morbidity, rates of interest, and methods adopted pursuant to this title which are applicable thereto.

(b) Any additional reserves which may be required by the director consistent with practice formulated or approved by the national association of insurance commissioners, on account of such insurance.

4. With reference to insurance other than specified in paragraph 3 of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this article.

5. Taxes, expenses and other obligations due or accrued at the date of the statement.

Sec. 51. Section 20-826, Arizona Revised Statutes, is amended to read:

20-826. Subscription contracts; definitions

A. A contract between a corporation and its subscribers shall not be issued unless the form of such contract is approved in writing by the director.

B. Each contract shall plainly state the services to which the subscriber is entitled and those to which the subscriber is not entitled under the plan, and shall constitute a direct obligation of the providers of services with which the corporation has contracted for hospital, medical, dental or optometric services.

C. Each contract, except for dental services or optometric services, shall be so written that the corporation shall pay benefits for each of the following:

1. Performance of any surgical service that is covered by the terms of such contract, regardless of the place of service.

2. Any home health services that are performed by a licensed home health agency and that a physician has prescribed in lieu of hospital services, as defined by the director, providing the hospital services would have been covered.

3. Any diagnostic service that a physician has performed outside a hospital in lieu of inpatient service, providing the inpatient service would have been covered.

4. Any service performed in a hospital's outpatient department or in a freestanding surgical facility, if such service would have been covered if performed as an inpatient service.

D. Each contract for dental or optometric services shall be so written that the corporation shall pay benefits for contracted dental or optometric services provided by dentists or optometrists.

E. Any contract, except accidental death and dismemberment, applied for that provides family coverage, as to such coverage of family members, shall also provide that the benefits applicable for children shall be payable with respect to a newly born child of the insured from the instant of such child's birth, to a child adopted by the insured, regardless of the age at which the child was adopted, and to a child who has been placed for adoption with the insured and for whom the application and approval procedures for adoption pursuant to section 8-105 or 8-108 have been completed to the same extent that such coverage applies to other members of the family. The coverage for newly born or adopted children or children placed for adoption shall include coverage of injury or sickness, including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the contract may require that notification of birth, adoption or adoption placement of the child and payment of the required premium must be furnished to the insurer within thirty-one days after the date of birth, adoption or adoption placement in order to have the coverage continue beyond the thirty-one day period.

F. Each contract that is delivered or issued for delivery in this state after December 25, 1977 and that provides that coverage of a dependent child shall terminate on attainment of the limiting age for dependent children specified in the contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both incapable of self-sustaining employment by reason of intellectual disability or physical ~~handicap~~ DISABILITY and chiefly dependent on the subscriber for support and maintenance. Proof of such incapacity and dependency shall be furnished to the corporation by the subscriber within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the corporation, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

G. No corporation may cancel or refuse to renew any subscriber's contract without giving notice of such cancellation or nonrenewal to the subscriber under such contract. A notice by the corporation to the subscriber of cancellation or nonrenewal of a subscription contract shall be mailed to the named subscriber at least forty-five days before the effective

date of such cancellation or nonrenewal. The notice shall include or be accompanied by a statement in writing of the reasons for such action by the corporation. Failure of the corporation to comply with this subsection shall invalidate any cancellation or nonrenewal except a cancellation or nonrenewal for nonpayment of premium.

H. A contract that provides coverage for surgical services for a mastectomy shall also provide coverage incidental to the patient's covered mastectomy for surgical services for reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other breast to produce a symmetrical appearance, prostheses, treatment of physical complications for all stages of the mastectomy, including lymphedemas, and at least two external postoperative prostheses subject to all of the terms and conditions of the policy.

I. A contract that provides coverage for surgical services for a mastectomy shall also provide coverage for mammography screening performed on dedicated equipment for diagnostic purposes on referral by a patient's physician, subject to all of the terms and conditions of the policy and according to the following guidelines:

1. A baseline mammogram for a woman from age thirty-five to thirty-nine.

2. A mammogram for a woman from age forty to forty-nine every two years or more frequently based on the recommendation of the woman's physician.

3. A mammogram every year for a woman fifty years of age and over.

J. Any contract that is issued to the insured and that provides coverage for maternity benefits shall also provide that the maternity benefits apply to the costs of the birth of any child legally adopted by the insured if all of the following are true:

1. The child is adopted within one year of birth.

2. The insured is legally obligated to pay the costs of birth.

3. All preexisting conditions and other limitations have been met by the insured.

4. The insured has notified the insurer of the insured's acceptability to adopt children pursuant to section 8-105, within sixty days after such approval or within sixty days after a change in insurance policies, plans or companies.

K. The coverage prescribed by subsection J of this section is excess to any other coverage the natural mother may have for maternity benefits except coverage made available to persons pursuant to title 36, chapter 29 but not including coverage made available to persons defined as eligible under section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e). If such other coverage exists, the agency, attorney or individual arranging the adoption shall make arrangements for the insurance to pay those costs that may be covered under that policy and shall advise the adopting parent in writing of the existence and extent of the coverage without disclosing any

1 confidential information such as the identity of the natural parent. The
2 insured adopting parents shall notify their insurer of the existence and
3 extent of the other coverage.
4 L. The director may disapprove any contract if the benefits provided
5 in the form of such contract are unreasonable in relation to the premium
6 charged.
7 M. The director shall adopt emergency rules applicable to persons who
8 are leaving active service in the armed forces of the United States and
9 returning to civilian status including:
10 1. Conditions of eligibility.
11 2. Coverage of dependents.
12 3. Preexisting conditions.
13 4. Termination of insurance.
14 5. Probationary periods.
15 6. Limitations.
16 7. Exceptions.
17 8. Reductions.
18 9. Elimination periods.
19 10. Requirements for replacement.
20 11. Any other condition of subscription contracts.
21 N. Any contract that provides maternity benefits shall not restrict
22 benefits for any hospital length of stay in connection with childbirth for
23 the mother or the newborn child to less than forty-eight hours following a
24 normal vaginal delivery or ninety-six hours following a cesarean section.
25 The contract shall not require the provider to obtain authorization from the
26 corporation for prescribing the minimum length of stay required by this
27 subsection. The contract may provide that an attending provider in
28 consultation with the mother may discharge the mother or the newborn child
29 before the expiration of the minimum length of stay required by this
30 subsection. The corporation shall not:
31 1. Deny the mother or the newborn child eligibility or continued
32 eligibility to enroll or to renew coverage under the terms of the contract
33 solely for the purpose of avoiding the requirements of this subsection.
34 2. Provide monetary payments or rebates to mothers to encourage those
35 mothers to accept less than the minimum protections available pursuant to
36 this subsection.
37 3. Penalize or otherwise reduce or limit the reimbursement of an
38 attending provider because that provider provided care to any insured under
39 the contract in accordance with this subsection.
40 4. Provide monetary or other incentives to an attending provider to
41 induce that provider to provide care to an insured under the contract in a
42 manner that is inconsistent with this subsection.
43 5. Except as described in subsection O of this section, restrict
44 benefits for any portion of a period within the minimum length of stay in a

manner that is less favorable than the benefits provided for any preceding portion of that stay.

O. Nothing in subsection N of this section:

1. Requires a mother to give birth in a hospital or to stay in the hospital for a fixed period of time following the birth of the child.

2. Prevents a corporation from imposing deductibles, coinsurance or other cost sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or a newborn child under the contract, except that any coinsurance or other cost sharing for any portion of a period within a hospital length of stay required pursuant to subsection N of this section shall not be greater than the coinsurance or cost sharing for any preceding portion of that stay.

3. Prevents a corporation from negotiating the level and type of reimbursement with a provider for care provided in accordance with subsection N of this section.

P. Any contract that provides coverage for diabetes shall also provide coverage for equipment and supplies that are medically necessary and that are prescribed by a health care provider, including:

1. Blood glucose monitors.

2. Blood glucose monitors for the legally blind.

3. Test strips for glucose monitors and visual reading and urine testing strips.

4. Insulin preparations and glucagon.

5. Insulin cartridges.

6. Drawing up devices and monitors for the visually impaired.

7. Injection aids.

8. Insulin cartridges for the legally blind.

9. Syringes and lancets, including automatic lancing devices.

10. Prescribed oral agents for controlling blood sugar that are included on the plan formulary.

11. To the extent coverage is required under medicare, podiatric appliances for prevention of complications associated with diabetes.

12. Any other device, medication, equipment or supply for which coverage is required under medicare from and after January 1, 1999. The coverage required in this paragraph is effective six months after the coverage is required under medicare.

Q. Nothing in subsection P of this section prohibits a medical service corporation, a hospital service corporation or a hospital, medical, dental and optometric service corporation from imposing deductibles, coinsurance or other cost sharing in relation to benefits for equipment or supplies for the treatment of diabetes.

R. Any hospital or medical service contract that provides coverage for prescription drugs shall not limit or exclude coverage for any prescription drug prescribed for the treatment of cancer on the basis that the prescription drug has not been approved by the United States food and drug

administration for the treatment of the specific type of cancer for which the prescription drug has been prescribed, if the prescription drug has been recognized as safe and effective for treatment of that specific type of cancer in one or more of the standard medical reference compendia prescribed in subsection S of this section or medical literature that meets the criteria prescribed in subsection S of this section. The coverage required under this subsection includes covered medically necessary services associated with the administration of the prescription drug. This subsection does not:

1. Require coverage of any prescription drug used in the treatment of a type of cancer if the United States food and drug administration has determined that the prescription drug is contraindicated for that type of cancer.

2. Require coverage for any experimental prescription drug that is not approved for any indication by the United States food and drug administration.

3. Alter any law with regard to provisions that limit the coverage of prescription drugs that have not been approved by the United States food and drug administration.

4. Notwithstanding section 20-841.05, require reimbursement or coverage for any prescription drug that is not included in the drug formulary or list of covered prescription drugs specified in the contract.

5. Notwithstanding section 20-841.05, prohibit a contract from limiting or excluding coverage of a prescription drug, if the decision to limit or exclude coverage of the prescription drug is not based primarily on the coverage of prescription drugs required by this section.

6. Prohibit the use of deductibles, coinsurance, copayments or other cost sharing in relation to drug benefits and related medical benefits offered.

S. For the purposes of subsection R of this section:

1. The acceptable standard medical reference compendia are the following:

(a) The American hospital formulary service drug information, a publication of the American society of health system pharmacists.

(b) The national comprehensive cancer network drugs and biologics compendium.

(c) Thomson Micromedex compendium DrugDex.

(d) Elsevier gold standard's clinical pharmacology compendium.

(e) Other authoritative compendia as identified by the secretary of the United States department of health and human services.

2. Medical literature may be accepted if all of the following apply:

(a) At least two articles from major peer reviewed professional medical journals have recognized, based on scientific or medical criteria, the drug's safety and effectiveness for treatment of the indication for which the drug has been prescribed.

(b) No article from a major peer reviewed professional medical journal has concluded, based on scientific or medical criteria, that the drug is unsafe or ineffective or that the drug's safety and effectiveness cannot be determined for the treatment of the indication for which the drug has been prescribed.

(c) The literature meets the uniform requirements for manuscripts submitted to biomedical journals established by the international committee of medical journal editors or is published in a journal specified by the United States department of health and human services as acceptable peer reviewed medical literature pursuant to section 186(t)(2)(B) of the social security act (42 United States Code section 1395x(t)(2)(B)).

T. A corporation shall not issue or deliver any advertising matter or sales material to any person in this state until the corporation files the advertising matter or sales material with the director. This subsection does not require a corporation to have the prior approval of the director to issue or deliver the advertising matter or sales material. If the director finds that the advertising matter or sales material, in whole or in part, is false, deceptive or misleading, the director may issue an order disapproving the advertising matter or sales material, directing the corporation to cease and desist from issuing, circulating, displaying or using the advertising matter or sales material within a period of time specified by the director but not less than ten days and imposing any penalties prescribed in this title. At least five days before issuing an order pursuant to this subsection, the director shall provide the corporation with a written notice of the basis of the order to provide the corporation with an opportunity to cure the alleged deficiency in the advertising matter or sales material within a single five day period for the particular advertising matter or sales material at issue. The corporation may appeal the director's order pursuant to title 41, chapter 6, article 10. Except as otherwise provided in this subsection, a corporation may obtain a stay of the effectiveness of the order as prescribed in section 20-162. If the director certifies in the order and provides a detailed explanation of the reasons in support of the certification that continued use of the advertising matter or sales material poses a threat to the health, safety or welfare of the public, the order may be entered immediately without opportunity for cure and the effectiveness of the order is not stayed pending the hearing on the notice of appeal but the hearing shall be promptly instituted and determined.

U. Any contract that is offered by a hospital service corporation or medical service corporation and that contains a prescription drug benefit shall provide coverage of medical foods to treat inherited metabolic disorders as provided by this section.

V. The metabolic disorders triggering medical foods coverage under this section shall:

1. Be part of the newborn screening program prescribed in section 36-694.

2. Involve amino acid, carbohydrate or fat metabolism.

3. Have medically standard methods of diagnosis, treatment and monitoring, including quantification of metabolites in blood, urine or spinal fluid or enzyme or DNA confirmation in tissues.

4. Require specially processed or treated medical foods that are generally available only under the supervision and direction of a physician who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15, that must be consumed throughout life and without which the person may suffer serious mental or physical impairment.

W. Medical foods eligible for coverage under this section shall be prescribed or ordered under the supervision of a physician licensed pursuant to title 32, chapter 13 or 17 as medically necessary for the therapeutic treatment of an inherited metabolic disease.

X. A hospital service corporation or medical service corporation shall cover at least fifty per cent of the cost of medical foods prescribed to treat inherited metabolic disorders and covered pursuant to this section. A hospital service corporation or medical service corporation may limit the maximum annual benefit for medical foods under this section to five thousand dollars, which applies to the cost of all prescribed modified low protein foods and metabolic formula.

Y. Any contract between a corporation and its subscribers is subject to the following:

1. If the contract provides coverage for prescription drugs, the contract shall provide coverage for any prescribed drug or device that is approved by the United States food and drug administration for use as a contraceptive. A corporation may use a drug formulary, multitiered drug formulary or list but that formulary or list shall include oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods if the corporation does not impose deductibles, coinsurance, copayments or other cost containment measures for contraceptive drugs that are greater than the deductibles, coinsurance, copayments or other cost containment measures for other drugs on the same level of the formulary or list.

2. If the contract provides coverage for outpatient health care services, the contract shall provide coverage for outpatient contraceptive services. For the purposes of this paragraph, "outpatient contraceptive services" means consultations, examinations, procedures and medical services provided on an outpatient basis and related to the use of approved United States food and drug administration prescription contraceptive methods to prevent unintended pregnancies.

3. This subsection does not apply to contracts issued to individuals on a nongroup basis.

Z. Notwithstanding subsection Y of this section, a religiously affiliated employer may require that the corporation provide a contract

without coverage for specific items or services required under subsection Y of this section because providing or paying for coverage of the specific items or services is contrary to the religious beliefs of the religiously affiliated employer offering the plan. If a religiously affiliated employer objects to providing coverage for specific items or services required under subsection Y of this section, a written affidavit shall be filed with the corporation stating the objection. On receipt of the affidavit, the corporation shall issue to the religiously affiliated employer a contract that excludes coverage for specific items or services required under subsection Y of this section. The corporation shall retain the affidavit for the duration of the contract and any renewals of the contract. This subsection shall not exclude coverage for prescription contraceptive methods ordered by a health care provider with prescriptive authority for medical indications other than for contraceptive, abortifacient, abortion or sterilization purposes. A religiously affiliated employer offering the plan may state religious beliefs in its affidavit and may require the subscriber to first pay for the prescription and then submit a claim to the hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation along with evidence that the prescription is not for a purpose covered by the objection. A hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation may charge an administrative fee for handling these claims.

AA. Subsection Z of this section does not authorize a religiously affiliated employer to obtain an employee's protected health information or to violate the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to that act.

BB. Subsection Z of this section shall not be construed to restrict or limit any protections against employment discrimination that are prescribed in federal or state law.

CC. For the purposes of:

1. This section:

(a) "Inherited metabolic disorder" means a disease caused by an inherited abnormality of body chemistry and includes a disease tested under the newborn screening program prescribed in section 36-694.

(b) "Medical foods" means modified low protein foods and metabolic formula.

(c) "Metabolic formula" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(ii) Processed or formulated to be deficient in one or more of the nutrients present in typical foodstuffs.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.

(iv) Essential to a person's optimal growth, health and metabolic homeostasis.

(d) "Modified low protein foods" means foods that are all of the following:

(i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.

(ii) Processed or formulated to contain less than one gram of protein per unit of serving, but does not include a natural food that is naturally low in protein.

(iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.

(iv) Essential to a person's optimal growth, health and metabolic homeostasis.

2. Subsection E of this section, "child", for purposes of initial coverage of an adopted child or a child placed for adoption but not for purposes of termination of coverage of such child, means a person under eighteen years of age.

3. Subsections Z and AA of this section, "religiously affiliated employer" means either:

(a) An entity for which all of the following apply:

(i) The entity primarily employs persons who share the religious tenets of the entity.

(ii) The entity primarily serves persons who share the religious tenets of the entity.

(iii) The entity is a nonprofit organization as described in section 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as amended.

(b) An entity whose articles of incorporation clearly state that it is a religiously motivated organization and whose religious beliefs are central to the organization's operating principles.

Sec. 52. Section 20-1341, Arizona Revised Statutes, is amended to read:

20-1341. <u>Scope of article</u>

Nothing in this article shall apply to or affect:

1. Any policy of liability or workers' compensation insurance with or without supplementary expense coverage therein.

2. Any group or blanket policy.

3. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to

disability insurance as provide additional benefits in case of death or dismemberment or loss of sight by accident, or as operate to safeguard such contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant ~~becomes totally and permanently disabled~~ DEVELOPS A TOTAL AND PERMANENT DISABILITY, as defined by the contract or supplemental contract.

4. Reinsurance.

Sec. 53. Section 20-1342.01, Arizona Revised Statutes, is amended to read:

20-1342.01. Children with disabilities

An individual hospital or medical expense insurance policy~~,~~ delivered or issued for delivery in this state more than one hundred twenty days after August 27, 1977 that provides that coverage of a dependent child shall terminate on attainment of the limiting age for dependent children specified in the policy, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of that child while the child is and continues to be both incapable of self-sustaining employment by reason of intellectual disability or physical ~~handicap~~ DISABILITY and chiefly dependent on the policyholder for support and maintenance. Proof of such incapacity and dependency shall be furnished to the insurer by the policyholder within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

Sec. 54. Section 20-1346, Arizona Revised Statutes, is amended to read:

20-1346. Time limit on defenses

A. There shall be a provision as follows: "Time limit on certain defenses: (a) After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two year period."

"(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

B. The policy provision set forth in (a) of subsection A of this section shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two year period, nor to limit the application of sections 20-1358, 20-1359, 20-1360, 20-1361 and 20-1362 in the event of misstatement with respect to age or occupation or other insurance.

C. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of (a) of subsection A of this section the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable:" "After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is ~~disabled~~ A PERSON WITH A DISABILITY), it shall become incontestable as to the statements contained in the application."

Sec. 55. Section 20-1407, Arizona Revised Statutes, is amended to read:

20-1407. Children with disabilities

A group hospital or medical expense insurance policy delivered or issued for delivery in this state more than one hundred twenty days after August 27, 1977 that provides that coverage of a dependent child of an employee or other member of the covered group shall terminate on attainment of the limiting age for dependent children specified in the policy, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of that child while the child is and continues to be both incapable of self-sustaining employment by reason of intellectual disability or physical ~~handicap~~ DISABILITY and chiefly dependent on the employee or member for support and maintenance. Proof of such incapacity and dependency shall be furnished to the insurer by the employee or member within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

Sec. 56. Section 20-1603, Arizona Revised Statutes, is amended to read:

20-1603. Definitions

In this article, unless the context otherwise requires:

1. "Consumer credit insurance" means any one or a combination of the following:

(a) Credit life insurance.

(b) Credit disability insurance.

(c) Credit unemployment insurance.

2. "Credit disability insurance" means insurance on a debtor to provide indemnity for payments becoming due or outstanding on a specific loan or other credit transaction while the debtor is ~~disabled~~ A PERSON WITH A DISABILITY as defined in the policy or certificate.

3. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction that provides for the satisfaction of a debt, in whole or in part, on the death of an insured debtor.

4. "Credit property insurance" has the same meaning prescribed in section 20-1621.01.

5. "Credit unemployment insurance" means casualty insurance on a debtor to provide indemnity for payments or debt becoming due on a specific loan or other credit transaction while the debtor is involuntarily unemployed as defined in the policy.

6. "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges, including a lessor under a lease intended as a security, where payment is arranged through a credit transaction. "Creditor" means also any successor to the right, title or interest of any such lender, vendor or lessor or an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them.

7. "Debtor" means a borrower of money or a person possessing a commitment for a loan of certain funds or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

8. "Director" means the director of insurance.

9. "Gross debt" means the sum of the remaining payments that a debtor owes a creditor.

10. "Identifiable charge" means a charge for a type of consumer credit insurance that is made to debtors having that insurance and not made to debtors not having the insurance, and that includes a charge for insurance that is disclosed in the credit or other instrument furnished to the debtor that states the financial elements of the credit transaction and any difference in the finance, interest, service or other similar charge made to debtors in like circumstances except for the insured or noninsured status of the debtor or of the property used as security for the credit transaction.

11. "Loan" means an advance or commitment of certain funds pursuant to a repayment agreement.

12. "Net debt" means the amount necessary to liquidate a debt in a single lump sum payment, excluding all unearned interest and other unearned finance charges.

Sec. 57. Section 20-1631, Arizona Revised Statutes, is amended to read:

20-1631. <u>Definition of motor vehicle; cancellation of or failure to renew coverage; limitations; limitation of liability; exceptions; insurance producers</u>

A. In this article, unless the context otherwise requires, "motor vehicle" means a licensed land, motor-driven vehicle but does not mean:

1. A private passenger or station wagon type vehicle used as a public or livery conveyance or rented to others.

2. Any other four-wheel motor vehicle of a load capacity of fifteen hundred pounds or less that is used in the business of transporting

passengers for hire, used in business primarily to transport property or equipment, used as a public or livery conveyance or rented to others.

3. Any motor vehicle with a load capacity of more than fifteen hundred pounds.

B. A motor vehicle used as a public or livery conveyance or rented to others does not include a motor vehicle used in the course of volunteer work for a tax-exempt organization as described in section 43-1201, SUBSECTION A, paragraph 4.

C. An insurer shall not cancel or refuse to renew a motor vehicle insurance policy solely because of the location of residence, age, race, color, religion, sex, national origin or ancestry of anyone who is an insured.

D. An insurer shall not issue a motor vehicle insurance policy in this state unless the cancellation and renewal conditions of the policy or the endorsement on the policy includes the limitations required by this section. After a policy issued in this state has been in effect for sixty days, or if the policy is a renewal, effective immediately, the company shall not exercise its right to cancel or fail to renew the insurance afforded under the policy unless:

1. The named insured fails to discharge when due any of the obligations of the named insured in connection with the payment of premium for this policy or any installment of the premium.

2. The insurance was obtained through fraudulent misrepresentation.

3. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy:

(a) Has had the person's driver license suspended or revoked during the policy period.

(b) ~~Becomes permanently disabled~~ DEVELOPS A PERMANENT DISABILITY, either physically or mentally, and such individual does not produce a certificate from a physician or a registered nurse practitioner testifying to such person's ability to operate a motor vehicle.

(c) Is or has been convicted during the thirty-six months immediately preceding the effective date of the policy or during the policy period of:

(i) Criminal negligence resulting in death, homicide or assault and arising out of the operation of a motor vehicle.

(ii) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs.

(iii) Leaving the scene of an accident.

(iv) Making false statements in an application for a driver license.

(v) Reckless driving.

4. The insurer is placed in rehabilitation or receivership by the insurance supervisory official in its state of domicile or by a court of

competent jurisdiction or the director has suspended the insurer's certificate of authority based on its financially hazardous condition.

5. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy uses a motor vehicle rated or insured under the policy as a private passenger motor vehicle regularly and frequently for commercial purposes.

6. The director determines that the continuation of the policy would place the insurer in violation of the laws of this state or would jeopardize the solvency of the insurer.

7. If the insured and the insured's family members are eligible for insurance based solely on the insured's employment with the insurer, employment of the insured with that insurer is terminated and the insurer exercises its right to nonrenew the policy within twelve months following the insured's termination of employment.

E. In addition to the authorization to fail to renew insurance provided by subsection D of this section, an insurer may exercise its right to fail to renew a motor vehicle insurance policy pursuant to this subsection. An insurer shall provide notice of the nonrenewal to the named insured as prescribed by section 20-1632 at least forty-five days before the nonrenewal. A named insured who disputes the nonrenewal of the named insured's policy may file an objection with the director pursuant to section 20-1633. An insurer shall not fail to renew more than one-half of one per cent of its policies annually pursuant to this subsection. An insurer may fail to renew a motor vehicle insurance policy if the named insured, any person who resides in the same household as the named insured and who customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy has had at any time during the thirty-six months immediately before the notice of nonrenewal three or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident that occurred prior to January 1, 2000 is more than one thousand eight hundred dollars. For accidents occurring on or after January 1, 2000, the department of insurance shall annually adjust and publish, to the nearest ten dollars, the threshold amount of property damages in this subsection by the percentage change in the all items component of the consumer price index for all urban consumers of the United States department of labor, bureau of labor statistics. The insurer shall not exercise its right to fail to renew the insurance under this subsection unless the same individual has had all the accidents that make the policy subject to nonrenewal under this subsection. The insurer shall not exercise its right to fail to renew a motor vehicle insurance policy pursuant to this subsection due to the accident record of the named insured if the named insured has been insured for standard automobile bodily injury coverage

for at least ten consecutive years with the same insurer prior to the most recent accident that makes the policy subject to nonrenewal under this subsection. For the purposes of this subsection, "at-fault" means the insured is at least fifty per cent responsible for the accident.

F. The company shall not cancel or fail to renew the insurance when a person other than the named insured has violated subsection D, paragraph 3 of this section, or fail to renew the insurance pursuant to subsection E of this section due to the driving record of an individual other than the named insured, if the named insured in writing agrees to exclude as insured the person by name when operating a motor vehicle and further agrees to exclude coverage to the named insured for any negligence that may be imputed by law to the named insured arising out of the maintenance, operation or use of a motor vehicle by the excluded person. The written agreement that excludes coverage under a policy for a named individual is effective for each renewal of the policy by the insurer and remains in effect until the insurer agrees in writing to provide coverage for the named individual who was previously excluded from coverage.

G. This article does not apply to any policy that has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless the policy is a renewal policy, or to policies:

1. Insuring any motor vehicle other than a private passenger motor vehicle as defined in section 20-117.

2. Insuring the motor vehicle hazard of garages, motor vehicle sales agencies, repair shops, service stations or public parking places.

3. Providing insurance only on an excess basis.

H. If a consumer purchases motor vehicle insurance coverage from an insurance producer licensed in this state, the insurance producer that owns the policy expiration shall remain the insurance producer of record for that insured. In the event the insurer terminates the insurance producer's contract, the insurance producer shall continue to provide customary services to the insured. The insurer shall provide the insurance producer with a minimum degree of authority necessary to provide customary services to the insured and shall provide the same level of compensation for these services that were in effect prior to the termination of the insurance producer contract.

I. Subsection H of this section shall not apply if one or more of the following conditions exist:

1. The insurance producer of record has had its license suspended or revoked by the department.

2. The insurance producer of record is indebted to the insurer.

3. The insured has supplied the insurer with a written request that its insurance producer of record be changed to another insurance producer of the insurer.

4. The insurance producer of record has authorized transfer of this account to another licensed insurance producer of the insurer.

5. The director has determined after a public hearing that continuation of this relationship is not in the best interest of the public.

6. The insurance producer of record is under an exclusive contract or contract requiring the insurance producer to submit all eligible business to an insurer or group of insurers under a common management.

J. Subsection H of this section shall not apply to any transaction in which the expiration of the policies is owned by the insurer.

K. Notwithstanding any law to the contrary, the issuance at renewal of revised policy provisions to modify an existing policy by adding coverages or policy provisions, modifying coverages or policy provisions, or eliminating coverages or policy provisions is not a nonrenewal or cancellation of the policy if the modification of a basic coverage does not eliminate the essential benefit of that basic coverage. If the modification of the basic coverage eliminates the essential benefit of the basic coverage, the director shall order the insurer to remove the modification from the policy. This subsection does not allow the insurer, without the written consent of the insured, to eliminate the basic coverages of the policy or to reduce the monetary limits of any of the basic coverages of the policy that were selected and agreed on. This subsection does not limit a policyholder from continuing to renew uninsured or underinsured motorist coverage pursuant to section 20-259.01. For the purposes of this subsection, "basic coverage" means any of the following:

1. Bodily injury coverage.
2. Property damage coverage.
3. Uninsured motorist coverage.
4. Underinsured motorist coverage.
5. Medical payments coverage.
6. Comprehensive coverage.
7. Collision coverage.

L. For the purposes of this section, "fail to renew" or "nonrenewal" does not include the issuance and delivery of a new policy within the same insurer or an insurer under the same ownership or management as the original insurer as provided in this subsection. An insurer may transfer up to one per cent of its policies to an affiliated insurer within one calendar year if under a policy to be transferred one or more of the insureds that are insured under the policy have individually within the past thirty-six months had two or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident exceeded one thousand five hundred dollars or individually have had three or more moving violations. Moving violations for which an insured completes an approved traffic school program shall not be considered as a moving violation under this section. A company shall not transfer a policy if a named insured agrees in writing to exclude as an insured a person or

persons who each individually meet the criteria for transfer pursuant to this subsection and further agrees to exclude coverage for any negligence that may be imputed by law to the named insured arising out of the maintenance, operation or use of a motor vehicle by such excluded person or persons. An insurer shall transfer only those individuals responsible for the at-fault accidents or moving violations, and the excluded or transferred insured's driving record shall not be used in determining rates, surcharges or premiums for the nonexcluded or nontransferred insured. The one per cent limit set forth in this subsection shall not apply to transfers of policies from the original insurer to another insurer under the same ownership or management as the original insurer if the rates charged by the other insurer are the same as or lower than the rates charged by the original insurer. No insurer shall transfer policyholders because of their location of residence, age, race, color, religion, sex, national origin or ancestry. Transfers by an insurer pursuant to this subsection shall not be construed to permit a new unrestricted sixty day period for cancellation or nonrenewal.

M. Except as provided in this subsection, an insurer shall not refuse to renew a policy until after August 31, 1998, based on an insured's failure to maintain membership in a bona fide association, until both the insurer and bona fide association have complied with this subsection and shall not refuse to renew any coverage continuously in effect before September 1, 1998, subject to all the following:

1. In addition to any other reason provided in this section, an insurer may refuse to renew an insurance policy issued pursuant to this article if all of the following conditions apply:

(a) The insurer clearly discloses to the applicant and the insured in the application for insurance and insurance policy that both the payment of dues and current membership in the bona fide association are prerequisites to obtaining or renewing the insurance.

(b) Any money paid to the bona fide association as a membership fee:

(i) Is not used by the insurer directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.

(ii) Is set independently of any factor used by the insurer to make any judgment or determination about the eligibility of any individual, including the member, an employee of a member or a dependent of a member, to purchase or renew the insurance.

(c) The bona fide association has filed a certification with the director verifying the eligibility of the insurer to refuse to renew an insurance policy based on membership in the bona fide association.

2. To qualify as a bona fide association pursuant to this subsection, the association shall meet all of the requirements of this paragraph. The association shall file a statement with the director at least thirty days before the commencement of the offer or sale of insurance as provided by this subsection verifying that the association meets the requirements of this paragraph. The association shall update the filing required by this

paragraph at least thirty days before the effective date of any material change in the information contained in the statement, and shall file a separate notice with the director if the insurance described in the statement is no longer available through the association. The statement shall include the following information:

(a) That the association has been in active existence for at least five consecutive years immediately before the filing of the statement.

(b) That the association has been formed and maintained in good faith for purposes other than obtaining or providing insurance and does not condition membership in the association on the purchase of insurance.

(c) That the association has articles of incorporation and bylaws or other similar governing documents.

(d) That the association does not condition membership in the association or set membership fees on the eligibility of any individual, including the member, an employee of the member or a dependent of the member, to purchase or renew the insurance, or on any factor that the insurer could not lawfully consider when setting rates.

(e) That the association has a relationship with a specific insurer or insurers and identifies the insurer or insurers.

3. Membership fees collected by the bona fide association are not premiums of the insurer that issued the coverage unless the bona fide association:

(a) Uses any portion of the membership fees directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.

(b) Sets or adjusts membership fees for any member of the bona fide association based on any factor used by the insurer that issues the insurance to make any judgment or determination about the eligibility of any individual, including the member, an employee of the member or a dependent of the member, to purchase or renew the insurance.

4. If the membership fees constitute premiums pursuant to paragraph 3 of this subsection, an insurer shall not refuse to renew a policy as otherwise permitted by this subsection.

Sec. 58. Section 20-2501, Arizona Revised Statutes, is amended to read:

20-2501. <u>Definitions; scope</u>

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

1. "Adverse decision" means a utilization review determination by the utilization review agent that a requested service or claim for service is not a covered service or is not medically necessary under the plan if that determination results in a documented denial or nonpayment of the service or claim.

2. "Benefits based on the health status of the insured" means a contract of insurance to pay a fixed benefit amount, without regard to the

specific services received, to a policyholder who meets certain eligibility criteria based on health status including:

(a) A disability income insurance policy that pays a fixed daily, weekly or monthly benefit amount to an insured who is deemed ~~disabled~~ A PERSON WITH A DISABILITY as defined by the policy terms.

(b) A hospital indemnity policy that pays a fixed daily benefit during hospital confinement.

(c) A disability insurance policy that pays a fixed daily, weekly or monthly benefit amount to an insured who is certified by a licensed health care professional as chronically ill as defined by the policy terms.

(d) A disability insurance policy that pays a fixed daily, weekly or monthly benefit amount to an insured who suffers from a prolonged physical illness, disability or cognitive disorder as defined by the policy terms.

3. "Claim" means a request for payment for a service already provided. Claim does not include:

(a) Claim adjustments for usual and customary charges for a service or coordination of benefits between health care insurers.

(b) A request for payment under a policy or contract that pays benefits based on the health status of the insured and that does not reimburse the cost of or provide covered services.

4. "Covered service" means a service that is included in a policy, evidence of coverage or similar document that specifies which services, insurance or other benefits are included or covered.

5. "Denial" means a direct or indirect determination regarding all or part of a request for any service or a direct determination regarding a claim that may trigger a request for review or reconsideration. Denial does not include:

(a) Enforcement of a health care insurer's deductibles, copayments or coinsurance requirements or adjustments for usual and customary charges, deductibles, copayments or coinsurance requirements for a service or coordination of benefits between health care insurers.

(b) The rejection of a request for payment under a policy or contract that pays benefits based on the health status of the insured and that does not reimburse the cost of or provide covered services.

6. "Department" means the department of insurance.

7. "Director" means the director of the department of insurance.

8. "Health care insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, prepaid dental plan organization, medical service corporation, dental service corporation or optometric service corporation or a hospital, medical, dental and optometric service corporation.

9. "Indirect denial" means a failure to communicate authorization or nonauthorization to the member by the utilization review agent within ten

business days after the utilization review agent receives the request for a covered service.

10. "Provider" means the physician or other licensed practitioner identified to the utilization review agent as having primary responsibility for providing care, treatment and services rendered to a patient.

11. "Service" means a diagnostic or therapeutic medical or health care service, benefit or treatment.

12. "Utilization review" means a system for reviewing the appropriate and efficient allocation of inpatient hospital resources, inpatient medical services and outpatient surgery services that are being given or are proposed to be given to a patient, and of any medical, surgical and health care services or claims for services that may be covered by a health care insurer depending on determinable contingencies, including without limitation outpatient services, in-office consultations with medical specialists, specialized diagnostic testing, mental health services, emergency care and inpatient and outpatient hospital services. Utilization review does not include elective requests for the clarification of coverage.

13. "Utilization review agent" means a person or entity that performs utilization review. For purposes of article 2 of this chapter, utilization review agent has the same meaning prescribed in section 20-2530. For purposes of this chapter, utilization review agent does not include:

(a) A governmental agency.

(b) An agent that acts on behalf of the governmental agency.

(c) An employee of a utilization review agent.

14. "Utilization review plan" means a summary description of the utilization review guidelines, protocols, procedures and written standards and criteria of a utilization review agent.

B. For the purposes of this chapter, utilization review by an optometric service corporation applies only to nonsurgical medical and health care services.

Sec. 59. Section 20-3211, Arizona Revised Statutes, is amended to read:

20-3211. <u>Contract requirements; execution; rescission; definition</u>

A. A provider entering into a life settlement contract with any owner of a policy in which the insured is terminally ill shall first obtain the following:

1. If the owner is the insured, a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a settlement contract.

2. A document in which the insured consents to the release of the insured's medical records to a provider, settlement broker or insurance producer and, if the policy was issued less than two years from the date of application for a settlement contract, to the insurance company that issued the policy.

B. The insurer shall respond to a request for verification of coverage submitted by a provider, settlement broker or life insurance producer not later than thirty calendar days from the date the request is received. The request for verification of coverage must be made on a form approved by the director. The insurer shall complete and issue the verification of coverage or indicate in which respects it is unable to respond. In the insurer's response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract.

C. Before or at the time of execution of the settlement contract, the provider shall obtain a witnessed document in which the owner consents to the settlement contract, represents that the owner has a full and complete understanding of the settlement contract and a full and complete understanding of the benefits of the policy, acknowledges that the owner is entering into the settlement contract freely and voluntarily and, for persons with a chronic illness or terminal illness or condition, acknowledges that the insured has a chronic illness or a terminal illness or condition and that the chronic illness or the terminal illness or condition was diagnosed after the policy was issued.

D. The insurer shall not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in this state or with a resident of this state.

E. If a life settlement broker or life insurance producer performs any of these activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.

F. If a broker performs the verification of coverage activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.

G. Within twenty days after an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued the insurance policy that the policy is subject to a life settlement contract. The notice shall be accompanied by the documents required by section 20-3204, subsection C.

H. All medical information solicited or obtained by any licensee is subject to any applicable law relating to confidentiality of medical information.

I. All life settlement contracts entered into in this state shall provide that the owner may rescind the contract on or before fifteen days after the date it is executed by all parties and the owner has received all required disclosures. Rescission, if exercised by the owner, is effective only if both notice of the rescission is given and the owner repays all proceeds and any premiums, loans and loan interest paid on account of the provider within the rescission period. If the insured dies during the rescission period, the contract shall be deemed to have been rescinded

subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans and loan interest to the provider.

J. Within three business days after receipt from the owner of documents to effect the transfer of the insurance policy, the provider shall pay the proceeds of the settlement to an escrow or trust account managed by a trustee or escrow agent in a state or federally chartered financial institution pending acknowledgment of the transfer by the issuer of the policy. The trustee or escrow agent shall transfer the proceeds due to the owner within three business days after acknowledgment of the transfer from the insurer.

K. Failure to tender the life settlement contract proceeds to the owner by the date disclosed to the owner renders the contract voidable by the owner for lack of consideration until the time the proceeds are tendered to and accepted by the owner. The failure to give written notice of the right of rescission tolls the right of rescission until thirty days after the written notice of the right of rescission has been given.

L. Any fee paid by a provider, party, individual or owner to a broker in exchange for services provided to the owner pertaining to a life settlement contract shall be computed as a percentage of the offer obtained and not the face value of the policy. This section does not prohibit a broker from reducing the broker's fee below this percentage if the broker so chooses.

M. The broker shall disclose to the owner anything of value paid or given to a broker that relates to a life settlement contract.

N. At any time before or at the time of the application for or issuance of a policy or during a two-year period commencing with the date of issuance of the policy, a person shall not enter into a life settlement regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise, bequest or surrender of the policy is to occur. This prohibition does not apply if:

1. The owner certifies to the provider that the policy was issued on the owner's exercise of conversion rights arising out of a group or individual policy if the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four months. The time covered under a group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous and under the same group sponsorship.

2. The owner submits independent evidence to the provider that one or more of the following conditions have been met within the two-year period:

(a) The owner or insured is terminally ill.

(b) The owner or insured disposes of ownership interests in a closely held corporation pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued.

(c) The owner's spouse dies.

(d) The owner divorces the owner's spouse.

(e) The owner retires from full-time employment.

(f) The owner becomes ~~physically or mentally disabled~~ A PERSON WITH A PHYSICAL OR MENTAL DISABILITY and a physician determines that the disability prevents the owner from maintaining full-time employment.

(g) On the application of a creditor of the owner, a court of competent jurisdiction enters a final order, judgment or decree adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee or liquidator to all or a substantial part of the owner's assets.

O. The provider shall submit copies of the independent evidence required by subsection N, paragraph 2 of this section when the provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider. This section does not prohibit an insurer from exercising its right to contest the validity of any policy.

P. If the provider submits to the insurer a copy of independent evidence as provided in subsection N, paragraph 2, subdivision (a) of this section when the provider submits a request to the insurer to effect the transfer of the policy to the provider, the copy shall be deemed to establish that the settlement contract satisfies the requirements of this section.

Q. An insurer shall not:

1. Engage in any transaction, act or practice that restricts, limits or impairs the lawful transfer of ownership, change of beneficiary or assignment of a policy.

2. Make any false or misleading statement for the purpose of dissuading an owner or insured from a lawful life settlement contract.

R. If there is more than one owner on a single policy and the owners are residents of different states, the life settlement contract shall be governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one owner agreed on in writing by all of the owners of the policy. The law of the state of the insured shall govern in the event that equal owners fail to agree in writing on a state of residence for jurisdictional purposes.

S. A provider from this state who enters into a life settlement contract with an owner who is a resident of another state that has enacted statutes or adopted rules governing life settlement contracts shall be governed in the effectuation of that life settlement contract by the statutes and rules of the owner's state of residence. If the state in which the owner is a resident has not enacted statutes or rules governing life settlement contracts, the provider shall give the owner notice that neither state regulates the transaction on which the owner is entering. For transactions in those states, the provider shall maintain all records required if the

transactions were executed in the state of residence. The forms used in those states need not be approved by the department.

T. If there is a conflict in the laws that apply to an owner and a purchaser in any individual transaction, the laws of the state that apply to the owner shall take precedence and the provider shall comply with those laws.

U. It is a fraudulent life settlement act and a violation of this chapter for any person to do any of the following or any of the acts listed in subsection X of this section:

1. Enter into a life settlement contract if a person knows or reasonably should have known that the life insurance policy was obtained by means of a false, deceptive or misleading application for the policy.

2. Engage in any transaction, practice or course of business if a person knows or reasonably should have known that the intent was to avoid the notice requirements of this section.

3. Engage in any fraudulent act or practice in connection with any transaction relating to any settlement involving an owner who is a resident of this state.

4. Fail to provide the disclosures or file the required reports with the director as required by this chapter.

5. Issue, solicit or market the purchase of a new life insurance policy for the sole purpose of, or with a primary emphasis on, settling the policy.

6. With respect to any settlement contract or insurance policy and a broker, knowingly solicit an offer from, effectuate a life settlement contract with or make a sale to any provider, financing entity or related provider trust that is controlling, controlled by or under common control with a broker, unless the relationship has been fully disclosed to the owner.

7. With respect to any life settlement contract or insurance policy and a provider, knowingly enter into a life settlement contract with an owner if, in connection with a life settlement contract, anything of value will be paid to a broker that is controlling, controlled by or under common control with a provider or the financing entity or related provider trust that is involved in a settlement contract, unless the relationship has been fully disclosed to the owner.

8. With respect to a provider, enter into a life settlement contract unless the life settlement promotional, advertising and marketing materials, have been filed with the director as may be prescribed by rule. The marketing materials shall not expressly reference that the insurance is free for any period of time. The inclusion of any reference in the marketing materials that would cause an owner to reasonably believe that the insurance is free for any period of time is a violation of this chapter.

9. With respect to any life insurance producer, insurance company, broker or provider, make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance

policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

V. Life settlement contracts and applications for life settlement contracts, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

> Any person who knowingly presents false information in an application for insurance or for a life settlement contract may be subject to criminal or civil liability.

W. The lack of a statement as required by subsection V of this section does not constitute a defense in any prosecution for a fraudulent life settlement act.

X. For the purposes of this section, "fraudulent life settlement act" includes all of the following:

1. Acts or omissions committed by any person who, for the purpose of depriving another of property or for pecuniary gain, commits or permits his employees or agents to engage in acts, including the following:

(a) Presenting, causing to be presented or preparing with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer~~,~~ OR insurance producer or any other person, false material information, or concealing material information as part of, in support of or concerning a fact material to one or more of the following:

(i) An application for the issuance of a life settlement contract or insurance policy.

(ii) The underwriting of a life settlement contract or insurance policy.

(iii) A claim for payment or benefit pursuant to a life settlement contract or insurance policy.

(iv) Premiums paid on an insurance policy.

(v) Payments and changes in ownership or beneficiary made according to the terms of a life settlement contract or insurance policy.

(vi) The reinstatement or conversion of an insurance policy.

(vii) The solicitation, offer to enter into or effectuation of a life settlement contract or insurance policy.

(viii) The issuance of written evidence of life settlement contracts or insurance and any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a life insurance policy.

(b) Employing any device, scheme or artifice to defraud in the business of life settlements.

(c) Entering into any intentional practice or plan that involves stranger originated life insurance as prescribed in section 20-443.02.

(d) Employing any device, scheme or artifice in violation of section 20-1104.

(e) If providing premium financing, receiving any proceeds, fees or other consideration from the policy or owner of the policy that are in

addition to the amounts required to pay principal, interest and any costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except for a default, unless the default on such a loan or transfer of the policy occurs pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter. Any payments, charges, fees or other amounts received by a person providing premium financing in violation of this subdivision shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of overpayment.

2. If a person does any of the following or permits the person's employees or agents to do any of the following, in the furtherance of a fraud or to prevent the detection of a fraud:

(a) Remove, conceal, alter, destroy or sequester from the director the assets or records of a licensee or other person engaged in the business of life settlements.

(b) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer or other person.

(c) Transact the business of life settlements in violation of any law requiring a license, certificate of authority or other legal authority for the transaction of the business of life settlements.

(d) File with the director or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the director.

(e) Engage in embezzlement, theft, misappropriation or conversion of moneys, funds, premiums, credits or other property of a provider, insurer, insured, owner, insurance policy owner or any other person engaged in the business of life settlements or insurance.

(f) Enter into, broker or otherwise deal in a life settlement contract that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information requested concerning any fact material to the policy where the owner or the owner's agent intended to defraud the policy's issuer.

(g) Attempt to commit, assist, aid or abet in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

(h) Misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this chapter for the purpose of evading or avoiding the provisions of this chapter.

Sec. 60. Section 23-501, Arizona Revised Statutes, is amended to read:

23-501. Definitions

In this article, unless the context otherwise requires:

1. "Department" means the department of economic security.

2. "Director" means the director of the department.

~~4.~~ 3. "Division" means the department of economic security.

~~5.~~ 4. "Maintenance" means money payments not to exceed the estimated cost of subsistence during vocational rehabilitation.

~~3.~~ 5. ~~"Disabled person" or "handicapped person"~~ "PERSON WITH A DISABILITY" means any individual who has a physical or mental disability and a substantial ~~handicap~~ DISADVANTAGE to employment, which is of such a nature that vocational rehabilitation services may reasonably be expected to render ~~him~~ THE PERSON fit to engage in a gainful occupation, including a gainful occupation which is more consistent with ~~his~~ THE PERSON'S capacities and abilities, or for whom vocational rehabilitation services are necessary for the purpose of extended evaluation to determine rehabilitation potential.

6. "Physical restoration" means medical, surgical or therapeutic treatment necessary to correct or reduce the employment ~~handicap~~ DISADVANTAGE of a ~~disabled~~ person WITH A DISABILITY and includes medical, psychiatric, dental and surgical treatment, nursing service, hospital care not to exceed ninety days, convalescent home care, drugs, medical and surgical supplies and prosthetic appliances and other related services as defined in the vocational rehabilitation act, as amended.

7. "Prosthetic appliance" means an artificial device necessary to support or take the place of a part of the body, or to increase the acuity of a sense organ.

8. "Vocational rehabilitation" or "vocational rehabilitation service" means a service determined by the director to be necessary to enable a ~~disabled~~ person WITH A DISABILITY to engage in a remunerative occupation and includes medical and vocational diagnosis, vocational guidance, counsel and placement, rehabilitation, training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance and training books and materials, follow up, evaluation and work adjustment and other related services as defined in the vocational rehabilitation act, as amended.

Sec. 61. Section 23-502, Arizona Revised Statutes, is amended to read:

23-502. Rehabilitation services

The department shall provide vocational rehabilitation service to ~~disabled~~ persons WITH A DISABILITY WHO ARE eligible ~~therefor~~ as provided by this article.

Sec. 62. Section 23-503, Arizona Revised Statutes, is amended to read:

23-503. Duties and powers

The department shall cooperate in carrying out the purposes of federal statutes pertaining to vocational rehabilitation. The division may adopt methods of administration found by the federal government necessary for the proper and efficient operation of agreements relating to vocational rehabilitation, and shall comply with conditions deemed necessary to secure the full benefits of such federal statutes. The division may:

1. Cooperate with other departments, divisions, agencies and institutions in providing for the vocational rehabilitation of ~~disabled~~ persons WITH A DISABILITY and studying the problems involved therein, and in establishing, developing and providing programs, facilities and services deemed necessary or desirable.

2. Enter into reciprocal agreements with other states to provide for vocational rehabilitation of residents of the states concerned.

Sec. 63. Section 23-503.01, Arizona Revised Statutes, is amended to read:

23-503.01. Coordination of vocational rehabilitation services

The department shall coordinate its provision of vocational rehabilitation services to ~~intellectually disabled~~ persons WITH AN INTELLECTUAL DISABILITY with its provision of intellectual disability services to such persons, including the areas of evaluation of applicants for either type of services and the development of program and rehabilitation plans for ~~intellectually disabled~~ persons WITH AN INTELLECTUAL DISABILITY.

Sec. 64. Section 23-506, Arizona Revised Statutes, is amended to read:

23-506. Eligibility for assistance

A. Vocational rehabilitation service shall be provided to a ~~disabled~~ person WITH A DISABILITY, resident in the state, whose vocational rehabilitation in the judgment of the director after investigation can satisfactorily be achieved, or to any such person who is eligible for rehabilitation service under the terms of an agreement with the federal government or with another state. Unless otherwise provided by law, the following vocational rehabilitation services shall be provided at public cost only to ~~disabled~~ persons WITH A DISABILITY WHO ARE determined to require financial assistance:

1. Physical restoration not including curative treatment for acute or transitory conditions.

2. Transportation not otherwise provided to determine the eligibility of the individual and the nature and extent of the rehabilitation services necessary.

3. Occupational licenses.

4. Customary occupational tools and equipment.

5. Maintenance.

6. Training books and materials.

B. The right of a ~~disabled~~ person WITH A DISABILITY to maintenance granted under ~~the provisions of~~ this section may not be transferred or assigned.

Sec. 65. Section 23-901.04, Arizona Revised Statutes, is amended to read:

23-901.04. Compensation precluded by misconduct, self-exposure or disobedience of orders of commission; definition

A. Notwithstanding any other provision of this chapter, no employee or dependent of an employee shall be entitled to receive compensation for disability from an occupational disease, as defined by section 23-901, paragraph 13, subdivision (c), when such disability was caused either wholly or partly by the wilful misconduct, wilful self-exposure or disobedience to such reasonable rules and regulations adopted by the employer and which have

been and are kept posted in conspicuous places in and about the premises of the employer, or otherwise brought to the attention of the employee.

B. As used in this section the term "wilful self-exposure" includes:

1. Failure or omission on the part of an employee or applicant for employment truthfully to state in writing to the best of his knowledge in answer to an inquiry made by the employer, the place, duration and nature of previous employment.

2. Failure or omission on the part of an applicant for employment truthfully to state in writing to the best of his knowledge in answer to an inquiry made by the employer, whether or not he had previously been ~~disabled~~ A PERSON WITH A DISABILITY, laid off or compensated in damages or otherwise because of any physical disability.

3. Failure or omission on the part of an employee or applicant for employment truthfully to give in writing to the best of his knowledge in answer to an inquiry made by the employer, full information about the previous status of his health, previous medical and hospital attention and direct and continuous exposure to active pulmonary tuberculosis.

Sec. 66. Section 23-901.07, Arizona Revised Statutes, is amended to read:

23-901.07. Persons with disabilities in vocational training; definition

A. Notwithstanding section 23-901, a qualified client of a nonprofit organization which provides vocational training to ~~handicapped~~ persons WITH DISABILITIES is an employee of the nonprofit organization for the purposes of this chapter if the nonprofit organization elects to have the qualified client treated as an employee.

B. ~~In~~ FOR THE PURPOSES OF this section, "qualified client" means a ~~handicapped~~ person WITH A DISABILITY who is enrolled in a vocational training program with a nonprofit organization, who works as part of this program for the nonprofit organization or for another person under a contract with the nonprofit corporation and who receives compensation for the work from the nonprofit organization.

Sec. 67. Section 23-1065, Arizona Revised Statutes, is amended to read:

23-1065. Special fund; purposes; investment committee

A. The industrial commission may direct the payment into the state treasury of not to exceed one and one-half per cent of all premiums received by private insurance carriers during the immediately preceding calendar year. The same percentage shall be assessed against self-insurers based on the total cost to the self-insured employer as provided in section 23-961, subsection J. Such assessments shall be computed on the same premium basis as provided for in section 23-961, subsections J, K, L, M and N and shall be no more than is necessary to keep the special fund actuarially sound. Such payments shall be placed in a special fund within the administrative fund to provide, at the discretion of the commission, such additional awards as may

be necessary to enable injured employees to accept the benefits of any law of this state or of the United States, or both jointly, for promotion of vocational rehabilitation of persons ~~disabled~~ WITH DISABILITIES in industry.

B. In claims involving an employee who has a preexisting industrially-related permanent physical impairment of the type specified in section 23-1044, subsection B and who thereafter suffers an additional permanent physical impairment of the type specified in such subsection, the claim involving the subsequent impairment is eligible for reimbursement, as provided by subsection D of this section, according to the following:

1. The employer in whose employ the subsequent impairment occurred or its insurance carrier is solely responsible for all temporary disability compensation to which the employee is entitled and for an amount equal to the permanent disability compensation provided by section 23-1044, subsection B for the subsequent impairment. If the employee is determined to have sustained no loss of earning capacity after the medically stationary date, the employer or carrier shall pay him as a vocational rehabilitation bonus the amount calculated under this paragraph as a lump sum, which shall be a credit against any permanent compensation benefits awarded in any subsequent proceeding. The amount of the vocational rehabilitation bonus for which the employer or carrier is responsible under this paragraph shall be calculated solely on physical, medically rated permanent impairment and not on occupational or other factors.

2. If the commission determines that the employee is entitled to compensation for loss of earning capacity under section 23-1044, subsection C or permanent total disability under section 23-1045, subsection B, the total amount of permanent benefits for which the employer or carrier is solely responsible under paragraph 1 of this subsection shall be expended first, with monthly payments made according to the loss of earning capacity or permanent total disability award. The employer or carrier and the special fund are equally responsible for the remaining amount of compensation for loss of earning capacity under section 23-1044, subsection C or permanent total disability under section 23-1045, subsection B. This paragraph shall not be construed as requiring payment of any benefits under section 23-1044, subsection B in any case in which an employee is entitled to benefits for loss of earning capacity under section 23-1044, subsection C or permanent total disability benefits under section 23-1045, subsection B.

C. In claims involving an employee who has a preexisting physical impairment that is not industrially-related and, whether congenital or due to injury or disease, is of such seriousness as to constitute a hindrance or obstacle to employment or to obtaining reemployment if the employee becomes unemployed, and the impairment equals or exceeds a ten per cent permanent impairment evaluated in accordance with the American medical association guides to the evaluation of permanent impairment, and the employee thereafter suffers an additional permanent impairment not of the type specified in section 23-1044, subsection B, the claim involving the subsequent impairment

is eligible for reimbursement, as provided by subsection D of this section, under the following conditions:

1. The employer in whose employ the subsequent impairment occurred or its carrier is solely responsible for all temporary disability compensation to which the employee is entitled.

2. The employer had knowledge of the permanent impairment at the time the employee was hired, or that the employee continued in employment after the employer acquired such knowledge.

3. The employee's preexisting impairment is due to one or more of the following:

(a) Epilepsy.

(b) Diabetes.

(c) Cardiac disease.

(d) Arthritis.

(e) Amputated foot, leg, arm or hand.

(f) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than seventy-five per cent bilaterally.

(g) Residual disability from poliomyelitis.

(h) Cerebral palsy.

(i) Multiple sclerosis.

(j) Parkinson's disease.

(k) Cerebral vascular accident.

(l) Tuberculosis.

(m) Silicosis.

(n) Psychoneurotic disability following treatment in a recognized medical or mental institution.

(o) Hemophilia.

(p) Chronic osteomyelitis.

(q) Hyperinsulinism.

(r) Muscular dystrophies.

(s) Arteriosclerosis.

(t) Thrombophlebitis.

(u) Varicose veins.

(v) Heavy metal poisoning.

(w) Ionizing radiation injury.

(x) Compressed air sequelae.

(y) Ruptured intervertebral disk.

4. The employer or carrier and the special fund are equally responsible for the amount of compensation for loss of earning capacity under section 23-1044, subsection C or permanent total disability under section 23-1045, subsection B.

D. The employer or insurance carrier shall notify the commission of its intent to claim reimbursement for an eligible claim under subsection B or C of this section not later than the time the employer or insurance carrier notifies the commission pursuant to section 23-1047, subsection A. Upon

1 receiving notice the commission may expend funds from the special fund
2 created by this section for travel and discovery procedures and for the
3 employment of such independent legal, medical, rehabilitation, claims or
4 labor market consultants or experts as may be deemed necessary by the
5 commission to assist in the determination of the liability of the special
6 fund, if any, under subsection B or C of this section. In the event there is
7 any dispute regarding liability to the special fund pursuant to subsection B
8 or C of this section, the commission shall not delay the issuance of a
9 permanent award pursuant to section 23-1047, subsection B.
10 E. If the special fund created by this section is determined to be
11 liable under either subsection B or C of this section, the employer or
12 insurance carrier that is primarily liable shall pay the entire amount of the
13 award to the injured employee and the commission shall by rule provide for
14 the reimbursement of the employer or insurance carrier on an annual basis.
15 In any case arising out of subsection B or C of this section, the written
16 approval of the special fund is required for the compromise of any claim made
17 pursuant to section 23-1023. In any such case, written approval shall not be
18 unreasonably withheld by the special fund, carrier, self-insured employer or
19 other person responsible for the payment of compensation. Failure to obtain
20 the written approval of the special fund shall not cause the injured worker
21 to lose any benefits but ends the special fund's liability for reimbursement
22 and makes the employer or carrier solely responsible for the payment of the
23 remaining benefits.
24 F. The employer or insurance carrier shall make its claim for
25 reimbursement to the commission no later than November 1 each year, for
26 payments made pursuant to subsection B or C of this section during the twelve
27 months prior to October 1 each year. Claims shall be paid before December 31
28 each year. If the total annual reserved liabilities of the special fund
29 obligated under subsections B and C of this section exceed six million
30 dollars, as determined by the annual actuarial study performed pursuant to
31 subsection I of this section, the commission, after notice and a hearing, may
32 levy an additional assessment under subsection A of this section of up to
33 one-half per cent to meet such liabilities. Any insurance carrier or
34 employer who may be adversely affected by the additional assessment may at
35 any time prior to the sixtieth day after such additional assessment is
36 ordered file a complaint challenging the validity of the additional
37 assessment in the superior court in Maricopa county for a judicial review of
38 the additional assessment. On judicial review the determination of the
39 commission shall be upheld if supported by substantial evidence in the record
40 considered as a whole.
41 G. In the event the injured employee is awarded additional
42 compensation, under subsection A of this section, the commission retains
43 jurisdiction to amend, alter or change the award upon a change in the
44 physical condition of the injured employee resulting from the injury.

1 H. On receiving notice that the special fund may be liable under this
2 chapter, the commission may spend monies from the special fund established by
3 this section for expenses that are necessary to assist in the processing,
4 payment or determination of liability of the fund. These expenses may
5 include travel, discovery procedures and employing any legal, medical,
6 rehabilitation, claims or labor market consultant, examiner or expert.
7 I. The commission shall cause an annual actuarial study of the special
8 award fund to be made by a qualified actuary who is a member of the society
9 of actuaries. The actuary shall make specific recommendations for
10 maintaining the fund on a sound actuarial basis. The actuarial study shall
11 be completed on or before September 1.
12 J. The special fund of the commission consists of all monies from
13 premiums and assessments, except penalties assessed pursuant to this chapter,
14 received and paid into the fund, property and securities acquired by the use
15 of monies in the fund, interest earned on monies in the fund and other monies
16 derived from the sale, use or lease of properties belonging to the fund. The
17 special fund created by this section shall be administered by the director of
18 the industrial commission, subject to the authority of the industrial
19 commission. The director of the commission with approval of the investment
20 committee, in the administration of the special fund, may provide loans,
21 subject to repayment, budgetary review and legislative appropriation, to the
22 administrative fund for the purposes and subject to section 23-1081, acquire
23 real property and acquire or construct a building or other improvements on
24 the real property as may be necessary to house, contain, furnish, equip and
25 maintain offices and space for departmental and operational facilities of the
26 commission. The commission when using space constructed pursuant to this
27 section shall make equal payments of rent on a semiannual basis, which shall
28 be deposited in the special fund. The investment committee shall determine
29 the amount of the rent, which must be at least equal to or greater than that
30 determined by the joint committee on capital review for buildings of similar
31 design and construction as provided by section 41-792.01.
32 K. There is established an investment committee consisting of the
33 director and the chairman of the commission and three persons knowledgeable
34 in investments and economics appointed by the governor. Of the members
35 appointed by the governor, one shall be a professional in the investment
36 business, one shall represent workers' compensation insurers and one shall
37 represent self-insurers. The term of members appointed by the governor is
38 three years, which shall begin on July 1 and end on June 30 three years
39 later. The committee shall prescribe by rule investment policies and
40 supervise the investment activities of the special fund.
41 L. Each member of the investment committee, other than the director of
42 the commission, is eligible to receive from the special fund:
43 1. Compensation of fifty dollars for each day while in actual
44 attendance at meetings of the investment committee.

2. Reimbursement for expenses pursuant to title 38, chapter 4, article 2.

M. The investment committee shall meet at least once every month.

N. The investment committee shall periodically review and assess the investment strategy.

O. The investment committee, by resolution, may invest and reinvest the surplus or reserves in the funds established under this chapter in any legal investments authorized under section ~~38-719~~ 38-718.

P. In addition to the investments authorized under section ~~38-719~~ 38-718, the investment committee may approve the investment in real property and improvements on real property to house and maintain offices of the commission, including spaces for its departmental and operational facilities. Title to the real estate and improvements on the real estate vests in the special fund of the commission, and the assets become part of the fund as provided by this section.

Q. The investment committee may appoint a custodian for the safekeeping of all or any portion of the investments owned by the special fund of the commission and may register stocks, bonds and other investments in the name of a nominee. Except for investments held by a custodian or in the name of a nominee, all securities purchased pursuant to subsection O of this section shall promptly be deposited with the state treasurer as custodian thereof, who shall collect the dividends, interest and principal thereof, and pay, when collected, into the special fund. The state treasurer shall pay all vouchers drawn for the purchase of securities. The director may sell any of the securities as the director deems appropriate, if authorized by resolution of the investment committee, and the proceeds therefrom shall be payable to the state treasurer for the account of the special fund upon delivery of the securities to the purchaser or the purchaser's agent.

Sec. 68. Section 23-1071, Arizona Revised Statutes, is amended to read:

23-1071. <u>Notice by employees with disabilities of absence from locality or state; failure to give notice; change of doctor</u>

A. No employee may leave the state of Arizona for a period exceeding two weeks while the necessity of having medical treatment continues, without the written approval of the commission. Any employee leaving the state of Arizona for a period exceeding two weeks without such approval will forfeit ~~his~~ THE EMPLOYEE'S right to compensation during such time, as well as ~~his~~ THE EMPLOYEE'S right to reimbursement for ~~his~~ THE EMPLOYEE'S medical expenses, and any aggravation of ~~his~~ THE EMPLOYEE'S disability, by reason of the violation of this section, will not be compensated. If an administrative law judge approves an employee's request to leave this state after the request for written approval was initially denied by the commission, the employee is

entitled to any forfeited compensation and medical benefits from the date the employee first requested the written approval.

B. No employee may change doctors without the written authorization of the insurance carrier, the commission or the attending physician.

Sec. 69. Section 25-320, Arizona Revised Statutes, is amended to read:

25-320. Child support; factors; methods of payment; additional enforcement provisions; definitions

A. In a proceeding for dissolution of marriage, legal separation, maintenance or child support, the court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for support of the child, without regard to marital misconduct.

B. If child support has not been ordered by a child support order and if the court deems child support appropriate, the court shall direct, using a retroactive application of the child support guidelines to the date of filing a dissolution of marriage, legal separation, maintenance or child support proceeding, the amount that the parents shall pay for the past support of the child and the manner in which payment shall be paid, taking into account any amount of temporary or voluntary support that has been paid. Retroactive child support is enforceable in any manner provided by law.

C. If the parties lived apart before the date of the filing for dissolution of marriage, legal separation, maintenance or child support and if child support has not been ordered by a child support order, the court may order child support retroactively to the date of separation, but not more than three years before the date of the filing for dissolution of marriage, legal separation, maintenance or child support. The court must first consider all relevant circumstances, including the conduct or motivation of the parties in that filing and the diligence with which service of process was attempted on the obligor spouse or was frustrated by the obligor spouse. If the court determines that child support is appropriate, the court shall direct, using a retroactive application of the child support guidelines, the amount that the parents must pay for the past support of the child and the manner in which payments must be paid, taking into account any amount of temporary or voluntary support that has been paid.

D. The supreme court shall establish guidelines for determining the amount of child support. The amount resulting from the application of these guidelines is the amount of child support ordered unless a written finding is made, based on criteria approved by the supreme court, that application of the guidelines would be inappropriate or unjust in a particular case. The supreme court shall review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts. The supreme court shall base the guidelines and criteria for deviation from them on all relevant factors, considered together and weighed in conjunction with each other, including:

1. The financial resources and needs of the child.

2. The financial resources and needs of the custodial parent.

3. The standard of living the child would have enjoyed if the child lived in an intact home with both parents to the extent it is economically feasible considering the resources of each parent and each parent's need to maintain a home and to provide support for the child when the child is with that parent.

4. The physical and emotional condition of the child, and the child's educational needs.

5. The financial resources and needs of the noncustodial parent.

6. The medical support plan for the child. The plan should include the child's medical support needs, the availability of medical insurance or services provided by the Arizona health care cost containment system and whether a cash medical support order is necessary.

7. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.

8. The duration of parenting time and related expenses.

E. Even if a child is over the age of majority when a petition is filed or at the time of the final decree, the court may order support to continue past the age of majority if all of the following are true:

1. The court has considered the factors prescribed in subsection D of this section.

2. The child ~~is severely mentally or physically disabled~~ HAS SEVERE MENTAL OR PHYSICAL DISABILITIES as demonstrated by the fact that the child is unable to live independently and be self-supporting.

3. The child's disability began before the child reached the age of majority.

F. If a child reaches the age of majority while the child is attending high school or a certified high school equivalency program, support shall continue to be provided during the period in which the child is actually attending high school or the equivalency program but only until the child reaches nineteen years of age unless the court enters an order pursuant to subsection E of this section. Notwithstanding any other law, a parent paying support for a child over the age of majority pursuant to this section is entitled to obtain all records related to the attendance of the child in the high school or equivalency program.

G. If a personal check for support payments and handling fees is rightfully dishonored by the payor bank or other drawee, the person obligated to pay support shall make any subsequent support payments and handling fees only by cash, money order, cashier's check, traveler's check or certified check. If a person required to pay support other than by personal check demonstrates full and timely payment for twenty-four consecutive months, that person may pay support by personal check if these payments are for the full amount, are timely tendered and are not rightfully dishonored by the payor bank or other drawee.

1 H. Subsection G of this section does not apply to payments made by
2 means of an assignment.
3 I. If after reasonable efforts to locate the obligee the clerk or
4 support payment clearinghouse is unable to deliver payments for the period
5 prescribed in section 25-503 due to the failure of the person to whom the
6 support has been ordered to be paid to notify the clerk or support payment
7 clearinghouse of a change in address, the clerk or support payment
8 clearinghouse shall not deliver further payments and shall return the
9 payments to the obligor consistent with the requirements of section 25-503.
10 J. An order for child support shall assign responsibility for
11 providing medical insurance for the child who is the subject of the support
12 order to one of the parents and shall assign responsibility for the payment
13 of any medical costs of the child that are not covered by insurance according
14 to the child support guidelines. Each parent shall provide information to
15 the court regarding the availability of medical insurance for the child that
16 is accessible and available at a reasonable cost. In title IV-D cases, the
17 parent responsible pursuant to court order for providing medical insurance
18 for the child shall notify the child support enforcement agency in the
19 department of economic security if medical insurance has been obtained or if
20 the child is no longer covered under an insurance plan.
21 K. If the court finds that neither parent has the ability to obtain
22 medical insurance for the child that is accessible and available at a
23 reasonable cost, the court shall:
24 1. In a title IV-D case, in accordance with established title IV-D
25 criteria, establish a reasonable monthly cash medical support order to be
26 paid by the obligor. If medical assistance is being provided to a child
27 under title XIX of the social security act, cash medical support is assigned
28 to the state pursuant to section 46-407. On verification that the obligor
29 has obtained private insurance, the cash medical support order terminates by
30 operation of law on the first day of the month after the policy's effective
31 date or on the date the court, or the department in a title IV-D case, is
32 notified that insurance has been obtained, whichever is later. If the
33 private insurance terminates, the cash medical support order automatically
34 resumes by operation of law on the first day of the month following the
35 termination date of the policy.
36 2. Order one parent to provide medical insurance when it becomes
37 accessible and available at a reasonable cost.
38 3. Order that medical costs in excess of the cash medical support
39 amount shall be paid by each parent according to the percentage assigned for
40 payment of uninsured costs.
41 L. In a title IV-D case, if the court orders the noncustodial parent
42 to obtain medical insurance the court shall also set an alternative cash
43 medical support order to be paid by that parent if the child is not covered
44 under an insurance plan within ninety days after entry of the order or if the

child is no longer covered by insurance. The court shall not order the custodial parent to pay cash medical support.

M. In title IV-D cases the superior court shall accept for filing any documents that are received through electronic transmission if the electronically reproduced document states that the copy used for the electronic transmission was certified before it was electronically transmitted.

N. The court shall presume, in the absence of contrary testimony, that a parent is capable of full-time employment at least at the applicable state or federal adult minimum wage, whichever is higher. This presumption does not apply to noncustodial parents who are under eighteen years of age and who are attending high school.

O. An order for support shall provide for an assignment pursuant to sections 25-504 and 25-323.

P. Each licensing board or agency that issues professional, recreational or occupational licenses or certificates shall record on the application the social security number of the applicant and shall enter this information in its database in order to aid the department of economic security in locating parents or their assets or to enforce child support orders. This subsection does not apply to a license that is issued pursuant to title 17 and that is not issued by an automated drawing system. If a licensing board or agency allows an applicant to use a number other than the social security number on the face of the license or certificate while the licensing board or agency keeps the social security number on file, the licensing board or agency shall advise an applicant of this fact.

Q. The factors prescribed pursuant to subsection D of this section are stated for direction to the supreme court. Except pursuant to subsection E of this section and sections 25-501 and 25-809, The superior court shall not consider the factors when making child support orders, independent of the child support guidelines.

R. For the purposes of this section:

1. "Accessible" means that insurance is available in the geographic region where the child resides.

2. "Child support guidelines" means the child support guidelines that are adopted by the state supreme court pursuant to 42 United States Code sections 651 through 669B.

3. "Date of separation" means the date the married parents ceased to cohabit.

4. "Reasonable cost" means an amount that does not exceed the higher of five per cent of the gross income of the obligated parent or an income-based numeric standard that is prescribed in the child support guidelines.

5. "Support" has the same meaning prescribed in section 25-500.

6. "Support payments" means the amount of money ordered by the court to be paid for the support of the minor child or children.

Sec. 70. Section 25-327, Arizona Revised Statutes, is amended to read:

25-327. Modification and termination of provisions for maintenance, support and property disposition

A. Except as otherwise provided in section 25-317, subsections F and G, the provisions of any decree respecting maintenance or support may be modified or terminated only on a showing of changed circumstances that are substantial and continuing except as to any amount that may have accrued as an arrearage before the date of notice of the motion or order to show cause to modify or terminate. The addition of health insurance coverage as defined in section 25-531 or a change in the availability of health insurance coverage may constitute a continuing and substantial change in circumstance. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state. Modifications and terminations are effective on the first day of the month following notice of the petition for modification or termination unless the court, for good cause shown, orders the change to become effective at a different date but not earlier than the date of filing the petition for modification or termination.

B. Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated on the death of either party or the remarriage of the party receiving maintenance.

C. Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a minor child are not terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of future support may be modified, revoked or commuted to a lump sum payment to the extent just and appropriate in the circumstances and has priority equal to the right for family allowance in section 14-2404. Past due support has priority equal to claims provided for in section 14-3805, subsection A, paragraph 6.

D. Notwithstanding any other law, pursuant to a petition filed pursuant to this section the court may suspend the imposition of future interest that accrues on a judgment for support issued pursuant to this article for the period of time that the petitioner is incarcerated or ~~physically or mentally disabled~~ HAS PHYSICAL OR MENTAL DISABILITIES to the extent that the person is unable to maintain employment.

Sec. 71. Section 25-501, Arizona Revised Statutes, is amended to read:

25-501. Duties of support; exemption

A. Except as provided in subsection F of this section, every person has the duty to provide all reasonable support for that person's natural and adopted minor, unemancipated children, regardless of the presence or residence of the child in this state. In the case of ~~mentally or physically disabled~~ children WITH MENTAL OR PHYSICAL DISABILITIES, if the court, after considering the factors set forth in section 25-320, subsection D, deems it appropriate, the court may order support to continue past the age of majority. If a child reaches the age of majority while the child is

attending high school or a certified high school equivalency program, support shall continue to be provided while the child is actually attending high school or the equivalency program but only until the child reaches nineteen years of age unless the court enters an order pursuant to section 25-320, subsection E.

B. A child who is born as the result of artificial insemination is entitled to support from the mother as prescribed by this section and the mother's spouse if the spouse either is the biological father of the child or agreed in writing to the insemination before or after the insemination occurred.

C. The child support guidelines shall be used in determining the ability to pay child support and the amount of payments. The obligation to pay child support is primary and other financial obligations are secondary.

D. All duties of support as prescribed in this chapter may be enforced by all civil and criminal remedies provided by law.

E. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

F. The court may determine that a parent is not obligated to contribute to the support of the parent's minor child if maternity or paternity is the result of the parent's sexual contact with a person who, as a result of that contact, has been found guilty of sexual conduct with a minor under section 13-1405 or sexual assault under section 13-1406. The court may also apply this exemption to the parent's parents or legal guardian.

G. In any action filed pursuant to this title, if a duty of support for another person exists or may exist the parties shall file the social security ~~numbers~~ NUMBER of each party and any affected children in the record of the proceeding in a manner that is consistent with the requirements of the Arizona rules of family law relating to sensitive data. The court shall include this information in the state case registry and shall maintain this information in a manner that is consistent with the requirements of the Arizona rules of family law relating to sensitive data.

Sec. 72. Section 25-809, Arizona Revised Statutes, is amended to read:

25-809. Judgment

A. Except as provided in section 25-501, subsection F, if a respondent admits parentage or if the issue is decided in the affirmative in an action instituted during the child's minority, the court shall direct, subject to applicable equitable defenses and using a retroactive application of the current child support guidelines, the amount, if any, the parties shall pay for the past support of the child and the manner in which payment shall be made.

B. The court shall enter an order for support determined to be due for the period between the commencement of the proceeding and the date that current child support is ordered to begin. The court shall not order past

support retroactive to more than three years before the commencement of the proceeding unless the court makes a written finding of good cause after considering all relevant circumstances, including:

1. The circumstances, conduct or motivation of the party who claims entitlement to past support in not seeking an earlier establishment of maternity or paternity.

2. The circumstances, conduct or motivation of the party from whom past support is sought in impeding the establishment of maternity or paternity.

3. The diligence with which service of process was attempted on the respondent.

C. The court shall also direct the amount either parent shall pay for the actual costs of the pregnancy, childbirth and any genetic testing and other related costs subject to production of billing statements or other documentation. This documentation is prima facie evidence of amounts incurred and is admissible in evidence without the need for foundation testimony or other proof of authenticity or accuracy.

D. In any proceeding under this article the court shall order either parent or both parents to pay any monies reasonable and necessary for the support of the minor unemancipated child until the child reaches the age of majority or is emancipated. In determining the amount of support for the child, the court shall apply the child support guidelines pursuant to section 25-320, subsection D. If a child reaches the age of majority while the child is attending high school or a certified high school equivalency program, support shall continue to be provided while the child is actually attending high school or the equivalency program but only until the child reaches nineteen years of age unless the court enters an order pursuant to subsection F of this section.

E. The court may modify an order of support pursuant to section 25-503.

F. Even if a child is over the age of majority when a petition is filed or at the time of the final decree, the court may order support to continue past the age of majority if all of the following are true:

1. The court has considered the factors prescribed in subsection D of this section.

2. The child ~~is severely mentally or physically disabled~~ HAS SEVERE MENTAL OR PHYSICAL DISABILITIES as demonstrated by the fact that the child is unable to live independently and be self-supporting.

3. The child's disability began before the child reached the age of majority.

G. After considering the financial resources of both parties and the reasonableness of the positions each party has taken throughout the proceedings, the court may order a party to pay a reasonable amount to the other party for the costs and expenses of maintaining or defending any proceeding under this article. The court may order the party to pay these

amounts directly to the attorney. The attorney may enforce the order in the attorney's name with the same force and effect and in the same manner as if the order had been made on behalf of any party to the action. For the purposes of this subsection, "costs and expenses" includes attorney fees, deposition costs, appellate costs and other reasonable expenses the court determines were necessary.

H. The court has contempt powers to enforce its orders.

I. The parties may terminate an action brought under this article by agreement and compromise only if the court has approved the terms of the agreement and compromise.

Sec. 73. Section 28-882, Arizona Revised Statutes, is amended to read:

28-882. Parking spaces for persons with physical disabilities

A. Each state agency having jurisdiction over street parking or publicly owned and operated parking facilities shall provide specially designated and marked motor vehicle parking spaces for the exclusive use of persons with physical disabilities.

B. Each political subdivision of this state having jurisdiction over street parking or publicly owned and operated parking facilities shall provide, as determined by the county board of supervisors or the governing body of a city or town, specially designated and marked motor vehicle parking spaces for the exclusive use of persons with physical disabilities.

C. Each parking space ~~prescribed~~ DESCRIBED in this section shall be prominently outlined with paint and posted with a permanent sign that is located at least three feet but not more than six feet above the grade, that is of a color and design approved by the department and that bears the internationally accepted symbol of access and the caption "reserved parking".

Sec. 74. Section 28-884, Arizona Revised Statutes, is amended to read:

28-884. Parking space for persons with physical disabilities; prohibition

A. Except as provided in subsection B, a person shall not stop, stand or park a motor vehicle within any specially designated and marked parking space provided pursuant to this article unless the motor vehicle is transporting a person who has been issued a valid placard or international symbol of access special plates and either:

1. The motor vehicle displays the valid ~~permanently disabled~~ PERMANENT DISABILITY or ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard.

2. The motor vehicle displays international symbol of access special plates that are currently registered to the vehicle.

B. A person who is chauffeuring a person with a physical disability without a placard or international symbol of access special plates may park momentarily in a parking space provided pursuant to this article for the purpose of loading or unloading the person with a physical disability, and a complaint shall not be issued to the driver for the momentary parking.

Sec. 75. Section 28-2409, Arizona Revised Statutes, is amended to read:

28-2409. International symbol of access special plates; placard; definitions

A. The department shall issue special plates bearing the international symbol of access to either:

1. A person who ~~is permanently physically disabled~~ HAS PERMANENT PHYSICAL DISABILITIES and who is an owner or lessee of a motor vehicle.

2. An organization that owns or leases a motor vehicle that primarily transports ~~physically disabled~~ persons WITH PHYSICAL DISABILITIES.

B. A ~~permanently disabled~~ PERMANENT DISABILITY special plate issued under this section is valid for as long as the person to whom the plate is issued qualifies for issuance under this section.

C. A person who ~~is permanently physically disabled~~ HAS PERMANENT PHYSICAL DISABILITIES may obtain, if qualified, a ~~permanently disabled~~ PERMANENT DISABILITY removable windshield placard. A person who ~~is temporarily physically disabled~~ HAS A TEMPORARY PHYSICAL DISABILITY may obtain, if qualified, a ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard. An organization described in subsection A, paragraph 2 of this section may obtain, if qualified, a placard for each of the qualified vehicles. The department shall issue only one valid placard to ~~a temporarily or permanently physically disabled~~ AN applicant WITH A TEMPORARY OR PERMANENT PHYSICAL DISABILITY, except to replace a lost, stolen or mutilated placard or if the department determines, on receiving the applicant's written request, that the needs of the applicant are such that up to three valid placards are required. The department shall issue a placard pursuant to this section at no additional charge.

D. The department may issue up to three ~~permanently disabled~~ PERMANENT DISABILITY removable windshield placards to a nonprofit organization that provides assistance to senior citizens. The nonprofit organization shall maintain records on each volunteer who uses these placards to transport persons ~~who are temporarily or permanently disabled~~ WITH TEMPORARY OR PERMANENT DISABILITIES.

E. A ~~permanently disabled~~ PERMANENT DISABILITY removable windshield placard issued or renewed under this section is valid for five years. A ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard issued or renewed under this section is valid for a period of time as determined by the department. A person who desires to obtain a ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard for an additional period of time shall submit a new application.

F. A person or an organization described in subsection A, paragraph 2 of this section that desires to obtain a ~~permanently disabled~~ PERMANENT DISABILITY or ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard or international symbol of access special plates shall submit an

application to the department of transportation on a form furnished by the department of transportation that contains one of the following:

1. If a ~~permanently or temporarily disabled~~ person WITH A PERMANENT OR TEMPORARY DISABILITY, a medical certificate completed by a hospital administrator, an authorized physician or a registered nurse practitioner that certifies that the applicant ~~is physically disabled~~ HAS A PHYSICAL DISABILITY.

2. If a ~~disabled~~ person WITH A DISABILITY who is a veteran and who is one hundred per cent ~~disabled~~ A PERSON WITH A DISABILITY, a copy of the person's certificate of one hundred per cent disability issued by the United States department of veterans affairs.

3. If an organization, a signed statement by an authorized officer of the organization affirming that the registered vehicle that is owned or leased by the organization and that will display the placard or the international symbol of access special plates primarily transports ~~physically disabled~~ persons WITH PHYSICAL DISABILITIES.

G. On receipt of the application containing the medical certificate, the certificate of one hundred per cent disability issued by the United States department of veterans affairs or the signed statement, if the department of transportation finds that the applicant qualifies for the parking privileges pursuant to chapter 3, article 14 of this title, the department of transportation shall issue the placard or international symbol of access special plates.

H. A person or an organization described in subsection A, paragraph 2 of this section that desires to renew a ~~permanently disabled~~ PERMANENT DISABILITY removable windshield placard shall submit an application to the department containing one of the following:

1. If a ~~permanently disabled~~ PERMANENT DISABILITY person, a signed statement by the person that is witnessed by a department agent or notary public, that requests the renewal of the placard and that affirms that the person ~~is physically disabled~~ HAS A PHYSICAL DISABILITY.

2. If an organization, a signed statement by an authorized officer of the organization affirming that the registered vehicle that is owned or leased by the organization and that will display the placard primarily transports persons WITH PHYSICAL DISABILITIES.

I. The placard or international symbol of access special plates shall be displayed on or in the motor vehicle in the manner prescribed by the department.

J. A request for special plates issued under this section may be combined with a request for an honored military license plate issued under article 13 of this chapter or any other special plate. The department shall prescribe the form for the request. The request is subject to payment of only the fee required for the honored military license plate or other special plate and is not subject to any other special plate fee under section 28-2402. An international symbol of access special plate that is combined

with an honored military license plate or any other special plate is not a personalized special plate under section 28-2406.

K. For the purposes of this section:

1. "Authorized physician" means a doctor of medicine, osteopathy, podiatry or chiropractic licensed to practice medicine in this state or another state or authorized by the United States government to practice medicine.

2. "~~Permanently disabled~~ PERMANENT DISABILITY removable windshield placard" means a two-sided, hooked placard that includes on each side all of the following:

(a) The international symbol of access that is at least three inches in height, that is centered on the placard and that is white on a blue shield.

(b) An identification number.

(c) An expiration date.

(d) The seal or other identification of the issuing authority.

3. "~~Physically disabled~~ Person WITH A PHYSICAL DISABILITY" means a person who, as determined by a hospital administrator or authorized physician, meets any of the following conditions:

(a) Cannot walk two hundred feet without stopping to rest.

(b) Cannot walk without the use of or assistance from any brace, cane, crutch, other person, prosthetic device, wheelchair or other assistive device.

(c) Is restricted by lung disease to such an extent that the person's forced respiratory, expiratory volume for one second, if measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/Hg on room air at rest.

(d) Uses portable oxygen.

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association.

(f) Is severely limited in the person's ability to walk due to an arthritic, neurological or orthopedic condition.

4. "~~Temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard" means a two-sided, hooked placard that includes on each side all of the following:

(a) The international symbol of access that is at least three inches in height, that is centered on the placard and that is white on a red shield.

(b) An identification number.

(c) A date of expiration.

(d) The seal or other identification of the issuing authority.

Sec. 76. Section 28-2531, Arizona Revised Statutes, is amended to read:

28-2531. Registration; violation; classification; exceptions

A. A person is guilty of a class 5 felony who:

1. Intentionally removes a manufacturer's serial or identification number from, defaces, alters or destroys a manufacturer's serial or identification number on or knowingly possesses any removed, defaced, altered or destroyed manufacturer's serial or identification number from a motor vehicle.

2. Is in possession of a motor vehicle knowing or having reason to know that a manufacturer's serial or vehicle identification number has been removed, defaced, altered or destroyed without the permission of the department.

3. Knowingly issues a license plate without payment of the full amount of the registration and weight fee payable on the date of issuance of the license plate.

B. A person is guilty of a class 2 misdemeanor who:

1. Displays or possesses a registration card or license plate knowing it to be fictitious or to have been stolen, canceled, revoked, suspended or altered.

2. Lends to a person or knowingly permits the use of the person's registration card or license plate by a person not entitled to the card or plate.

3. Knowingly fails or refuses to surrender to the department on demand a license plate that has been suspended, canceled or revoked.

4. Uses a false or fictitious name or address in an application for registration of a vehicle or for a renewal or duplicate of a registration.

5. Knowingly makes a false statement or conceals a material fact or otherwise commits fraud in an application for registration of a vehicle or for a renewal or duplicate of a registration.

6. Knowingly issues a registration card that does not contain all information required to be shown on the card.

7. Knowingly places information on a registration card that does not appear on the certificate of title of the vehicle.

8. Operates on a street or highway a motor vehicle without an emissions control device as required by section 28-955 or with a device that has been dismantled or disconnected or is otherwise inoperative.

9. Displays or possesses a registration card or license plate while operating a vehicle on a highway after the person certifies to the department pursuant to section ~~28-4135~~ 28-4152 that the vehicle is nonoperational, is in storage or will not be operated on a highway of this state and does not have evidence of current financial responsibility applicable to the motor vehicle.

10. Intentionally alters, forges or counterfeits a ~~permanently disabled~~ PERMANENT DISABILITY removable windshield placard issued by this state or another state or country.

C. This section does not apply to law enforcement officers or employees of the United States, this state or a political subdivision of this state if the violation occurs in the course of their official duties.

D. Subsection A, paragraph 2 of this section does not apply to a towing company that has a vehicle in its possession pursuant to section 9-499.05, 11-251.04, 28-872 or 28-4834 or a business acting in good faith and in the normal course of business and in conformance with all applicable laws.

Sec. 77. Section 28-3165, Arizona Revised Statutes, is amended to read:

28-3165. Nonoperating identification license; immunity; rules; emancipated minors

A. On receipt of an application from a person who does not have a valid driver license issued by this state or whose driving privilege is suspended, the department shall issue a nonoperating identification license that contains a distinguishing number assigned to the licensee, the full legal name, the date of birth, the residence address and a brief description of the licensee and either a facsimile of the signature of the licensee or a space on which the licensee is required to write the licensee's usual signature with pen and ink. A nonoperating identification license that is issued to a person whose driving privilege is suspended shall not be valid for more than one hundred eighty days from the date of issuance.

B. On request of an applicant:

1. The department shall allow the applicant to provide on the nonoperating identification license a post office box address that is regularly used by the applicant.

2. If the applicant submits satisfactory proof to the department that the applicant is a veteran, the department shall allow a distinguishing mark to appear on the nonoperating identification license that identifies that person as a veteran.

C. A person who is issued a license pursuant to this section shall use it only for identification purposes of the licensee. The nonoperating identification license does not grant authority to operate a motor vehicle in this state. The department shall clearly label the nonoperating identification license "for identification only, not for operation of a motor vehicle".

D. On issuance of a driver license, the holder of a nonoperating identification license shall surrender the nonoperating identification license to the department and the department shall not refund any fee paid for the issuance of the nonoperating identification license.

E. A nonoperating identification license shall contain the photograph of the licensee. The department shall use a process in the issuance of nonoperating identification licenses that prohibits as nearly as possible the ability to superimpose a photograph on the license without ready detection. The department shall process nonoperating identification licenses and photo attachments in color.

F. On application, an applicant shall give the department satisfactory proof of the applicant's full legal name, date of birth, sex and residence address and that the applicant's presence in the United States is authorized under federal law. The application shall briefly describe the applicant, state whether the applicant has been licensed, and if so, the type of license issued, when and by what state or country and whether any such license is under suspension, revocation or cancellation. The application shall contain other identifying information required by the department.

G. The department may adopt and implement procedures to deny a nonoperating identification license to a person who has been deported. The department may adopt and implement procedures to reinstate a person's privilege to apply for a nonoperating identification license if the person's legal presence status is restored.

H. A nonoperating identification license issued by the department is solely for the use and convenience of the applicant for identification purposes.

I. The department shall adopt rules and establish fees for issuance of a nonoperating identification license, except that the department shall not require an examination.

J. A person who is sixty-five years of age or older and a person who is a recipient of public monies as ~~a disabled~~ AN individual WITH A DISABILITY under title XVI of the social security act, as amended, are exempt from the fees established pursuant to this section.

K. If a person qualifies for a nonoperating identification license and is under the legal drinking age, the department shall issue a license that is marked by color, code or design to immediately distinguish it from a nonoperating identification license issued to a person of legal drinking age. The department shall indicate on the nonoperating identification license issued pursuant to this subsection the year in which the person will attain the legal drinking age.

L. If a minor has been emancipated pursuant to title 12, chapter 15, on application and proof of emancipation, the department shall issue a nonoperating identification license that contains the words "emancipated minor".

Sec. 78. Section 28-5802, Arizona Revised Statutes, is amended to read:

28-5802. <u>Vehicle license tax exemption; veterans</u>

A. Notwithstanding section 28-5801, the registering officer shall not collect a vehicle license tax or registration fee from:

1. A veteran residing in this state for a vehicle or any replacement of the vehicle acquired by financial aid from the ~~veterans' administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS pursuant to ~~P.L.~~ PUBLIC LAW 79-663, 85-56, 85-857, 90-77, 91-666 and 93-538; 38 United States Code sections 1901 through 1988.

2. A veteran for a personally owned vehicle or a veteran and another party owning a vehicle if the veteran is certified by the ~~veterans' administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS to be one hundred per cent ~~disabled~~ WITH A DISABILITY and drawing compensation on that basis. The exemption provided by this paragraph applies to a surviving spouse of the ~~disabled~~ veteran WITH A DISABILITY until the surviving spouse's remarriage or death.

B. On initial registration of a vehicle a veteran claiming an exemption under this section shall present satisfactory proof of the veterans' administration financial aid or government compensation and certificate on determination of one hundred per cent disability, as applicable. The veteran may claim and be granted an exemption and the surviving spouse may renew the registration pursuant to the terms of the exemption provided to the veteran for only one vehicle or any replacement of the vehicle owned by the veteran or the surviving spouse until the surviving spouse's remarriage or death.

Sec. 79. Section 28-5803, Arizona Revised Statutes, is amended to read:

28-5803. Vehicle license tax exemption; individuals with disabilities

A. Notwithstanding section 28-5801, the registering officer shall not collect a vehicle license tax for a vehicle owned by a resident who is a recipient of public monies as ~~a disabled~~ AN individual WITH A DISABILITY under title 16 of the social security act.

B. A resident claiming the exemption under this section shall present satisfactory proof of the assistance described in subsection A of this section.

C. A ~~disabled~~ resident WITH A DISABILITY may claim only one vehicle for exemption under this section.

Sec. 80. Section 30-807, Arizona Revised Statutes, is amended to read:

30-807. Consumer outreach and education

A. Public power entities shall be responsible for ensuring and overseeing a comprehensive public education program regarding electric generation service competition. Public power entities and the commission shall coordinate their respective rules and procedures for public education programs to promote consistent implementation statewide. The program shall be designed to do the following:

1. Educate retail electric customers about the changes in the electric industry.

2. Provide retail electric customers with accurate and unbiased information so that retail electric customers may make informed choices when participating in the competitive electric generation service market.

3. Encourage public participation in the decision making process relating to establishing a competitive electric industry.

B. Public power entities shall work with interested parties including community based consumer advocate organizations to develop and implement an outreach and education plan. This plan shall include:

1. The dissemination of information by means of interactive approaches, as well as brochures or other written materials and a variety of mass media outlets.

2. An explanation in clear and plain language of the basic concepts of competitive electric generation service including the following issues:

(a) The effects of competitive electric generation service on retail electric customers and consumer programs.

(b) The basic responsibilities and risks retail electric customers assume with competitive electric generation service.

(c) The basic criteria for selecting a retail electricity supplier or provider of other services.

(d) Where the retail electric customer can find information on consumer protection, customer complaints and dispute resolution programs.

(e) The resources available for additional information including listing a toll free telephone number.

3. Publicized public forums conducted in several geographical areas of this state to obtain public input and provide opportunities for exchange of questions and answers.

4. Targeted efforts to reach rural, low income, elderly, non-english speaking, ~~disabled, minorities~~ PERSONS WITH DISABILITIES, MINORITY and at-risk populations.

Sec. 81. Section 31-201.01, Arizona Revised Statutes, is amended to read:

31-201.01. Duties of the director; tort actions; medical treatment costs; state immunity; definitions

A. The director shall hold in custody all persons sentenced to the department under the law and shall hold such persons for the term directed by the court, subject to law.

B. In addition to the medical and health services to be provided pursuant to subsection D of this section, the director may, in cooperation with the department of health services, provide to prisoners psychiatric care and treatment pursuant to sections 31-226 and 31-226.01.

C. The director may institute and pursue programs which promote the rehabilitation of the prisoners in the director's charge.

D. The director shall provide medical and health services for the prisoners. The director may contract for professional services to assist the director in carrying out this responsibility on behalf of the state, provided that all records made and retained in connection with the services provided by this subsection shall be made and retained only by duly authorized or qualified medical and professional personnel and not by any prisoner. Such records when not in use shall be retained in a safe and secure place.

E. If a victim of a person for whom a cost of incarceration has been calculated notifies the state that full restitution has not been made by the person for whom a cost of incarceration has been calculated, the state shall interplead with the superior court the disputed amount and set off the amounts owed the state from the remaining obligation.

F. Any and all causes of action which may arise out of tort caused by the director, prison officers or employees of the department, within the scope of their legal duty, shall run only against the state.

G. The director shall establish by rule reasonable medical and health service fees for the medical and health services that are provided pursuant to subsection D of this section. Except as provided in subsection I of this section, every inmate shall be charged a reasonable medical and health services fee for each medical visit an inmate makes pursuant to a health needs request form or for emergency treatment.

H. Except as provided in subsection I of this section, the director may charge each inmate a reasonable fee for prescriptions, medication or prosthetic devices.

I. The director shall exempt the following inmates or medical visits by inmates from payment of medical and health services fees and fees for prescriptions, medication or prosthetic devices:

1. Medical visits initiated by the medical or mental health staff of the department.

2. Medical visits to a physician by inmates who are referred by a physician assistant or nurse practitioner.

3. Inmates at reception centers.

4. Juvenile inmates.

5. Pregnant inmates.

6. Seriously mentally ill inmates. For the purposes of this paragraph, "seriously mentally ill inmates" means inmates who as a result of a mental disorder as defined in section 36-501 exhibit emotional or behavioral functioning which is so impaired as to interfere substantially with their capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration and whose mental disability is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living, including interpersonal relationships, self-care, employment and recreation.

7. ~~Developmentally disabled~~ Inmates WITH DEVELOPMENTAL DISABILITIES who are housed in a special programs unit.

8. Inmates who are housed in unit 8 at the Florence prison facility.

9. Inmates who are inpatients at the Alhambra prison facility special programs psychiatric hospital.

10. Inmates who are inpatients at the Flamenco prison facility mental health treatment unit.

11. Inmates who are undergoing administrative physical examinations for statewide driver status and fire fighting crews.

12. Inmates who are undergoing follow-up medical treatment for chronic diseases.

J. An inmate shall not be refused medical treatment for financial reasons.

K. All monies received by the department for medical and health service fees shall be deposited in the general fund.

L. A person who is convicted of a felony offense and who is incarcerated while awaiting sentence or while serving a sentence imposed by a court of law may not bring a cause of action seeking damages or equitable relief from the state or its political subdivisions, agencies, officers or employees for injuries suffered while in the custody of the state or its political subdivisions or agencies unless the complaint alleges specific facts from which the court may conclude that the plaintiff suffered serious physical injury or the claim is authorized by a federal statute.

M. The director shall establish criteria for reasonable deductions from monies credited to the prisoner's spendable account to repay the cost of:

1. State property that the inmate wilfully damages or destroys during the inmate's incarceration.

2. Medical treatment for injuries that the inmate inflicts on himself or others.

3. Searching for and apprehending an inmate who escapes or attempts to escape.

4. Quelling a riot or other disturbance in which the inmate is unlawfully involved.

N. For purposes of this section:

1. "Reasonable fee" means an amount not to exceed five dollars.

2. "Serious physical injury" means an impairment of physical condition that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

Sec. 82. Section 31-226, Arizona Revised Statutes, is amended to read:

31-226. <u>Mentally disordered prisoner; procedure for voluntary or involuntary hospitalization; notice; hearing; transfer; reports; return to incarceration or release; costs; definition</u>

A. If a prisoner confined in any facility operated by the state department of corrections displays symptoms of mental disorder to such a degree that transfer to the state hospital or a licensed behavioral health or mental health inpatient treatment facility operated by the state department of corrections is necessary to ensure adequate treatment, the psychiatrist of the facility, or if no psychiatrist is available, the physician at the facility, shall examine the prisoner and make a written report of the

psychiatrist's or physician's recommendations to the director of the state department of corrections. On receipt of a report that states that the psychiatrist or physician finds that the symptoms described in this subsection exist, the director of the state department of corrections may allow the prisoner to voluntarily transfer to a licensed behavioral health or mental health inpatient treatment facility operated by the state department of corrections if the prisoner is an adult male, to the state hospital or a licensed behavioral health treatment facility operated by the state department of corrections if the prisoner is a female or to the state hospital if the prisoner is a minor. If the patient does not voluntarily transfer, the director shall file a petition with the superior court in the county in which the prisoner is incarcerated for transfer for treatment of the prisoner to the state hospital or a licensed behavioral health treatment facility operated by the state department of corrections if the prisoner is a female, to a licensed behavioral health or mental health inpatient treatment facility operated by the state department of corrections if the prisoner is an adult male or to the state hospital if the prisoner is a minor.

B. At least ten days before the court conducts the hearing on the petition for transfer, the state department of corrections shall provide a copy of the petition and written notice of the hearing to the prisoner and written notice of the prisoner's rights at the hearing.

C. At least five days before the hearing, if the prisoner has not employed counsel, the court shall appoint counsel or an independent advisor to represent the prisoner at the hearing. On application by the prisoner the court shall also determine the necessity for any expert testimony by medical witnesses and authorize any necessary appointment and compensation for these witnesses at the state's expense. Notice shall be given to the state hospital if the prisoner is a female or a minor, and the state hospital shall be provided with an opportunity to participate in the hearing as an interested party, if it so desires.

D. At the hearing, the prisoner or the prisoner's representative may call witnesses to testify and may confront and cross-examine witnesses called by the state department of corrections except on a finding of good cause for not permitting such presentation, confrontation or cross-examination.

E. If the prisoner is determined to be suffering from a mental disorder to such a degree that transfer to the state hospital or a licensed behavioral health or mental health inpatient treatment facility operated by the state department of corrections is necessary to ensure adequate treatment, the court shall order and direct that the prisoner be transferred for treatment to the state hospital in the legal custody of the state department of corrections or a licensed behavioral health treatment facility operated by the state department of corrections if the prisoner is a female, to a licensed behavioral health or mental health inpatient treatment facility operated by the state department of corrections if the prisoner is an adult male or to the state hospital if the prisoner is a minor. The transfer of

the prisoner to the state hospital shall be made by the state department of corrections. The court order must be in writing and state the evidence relied on and the reasons for transferring the prisoner.

F. The superintendent of the state hospital shall provide the state department of corrections with a quarterly report of the condition of a prisoner transferred to the state hospital. The superintendent of the state hospital and the director of the state department of corrections shall also provide the superior court in the county which has jurisdiction over the transfer proceeding with a quarterly report of the condition of the prisoner.

G. If, in the opinion of the superintendent of the state hospital or the director of the state department of corrections, the prisoner no longer suffers from a mental disorder such that placement in the state hospital or the licensed behavioral health or mental health inpatient treatment facility operated by the state department of corrections is necessary to ensure adequate treatment, the superintendent of the state hospital or the director of the state department of corrections shall order the prisoner to a licensed behavioral health treatment facility operated by the state department of corrections or returned to a prison facility to serve the prisoner's unexpired term, and the period the prisoner was confined in the state hospital or the behavioral health or mental health treatment agency shall be considered as though incarcerated in a state department of corrections facility. If the term of imprisonment expires during the time the prisoner is confined in the state hospital or the behavioral health or mental health inpatient treatment facility, the director of the state department of corrections shall issue to the prisoner an absolute discharge at that time, and the prisoner's rights to release from the hospital are as provided in title 36, chapter 5.

H. A court-ordered evaluation may be made in accordance with title 36, chapter 5, article 4 if, within one hundred twenty days of the prisoner's scheduled release from prison or during any time that the prisoner is on release status, the prisoner appears to be, as a result of a mental disorder, a danger to self or to others, or ~~gravely disabled~~ IS A PRISONER WITH A GRAVE DISABILITY, and is unwilling to undergo a voluntary evaluation. For the purposes of this section, an inpatient mental health treatment facility operated by the state department of corrections is authorized to act as a screening agency. If the court orders inpatient evaluation, the order shall take effect on the day of the prisoner's scheduled release, or if the prisoner is on release status, on a date determined by the court, and the state department of corrections shall deliver the prisoner to the evaluation agency. Thereafter, all further evaluation and treatment shall be in accordance with the provisions of title 36, chapter 5, as they pertain to civil patients.

I. The state department of corrections shall pay all costs incurred for the prisoner during the term of the prisoner's sentence.

J. The county in which the court is located shall be reimbursed for expenses of the proceedings incurred by the county in accordance with section 31-227.

K. As used in this section "mental disorder" has the same meaning prescribed in section 36-501.

Sec. 83. Section 31-239, Arizona Revised Statutes, is amended to read:

31-239. Utility fees

A. The director shall establish by rule a reasonable utility fee for electrical utilities that are consumed by prisoners who are confined in a correctional facility. The fee shall not exceed two dollars per month. The director shall charge each prisoner who possesses at least one major electrical appliance a utility fee. The director shall deduct the utility fee monthly from the prisoner's spendable account.

B. The director shall use the monies collected pursuant to this section to offset the cost of the department's utility expenses.

C. The director shall exempt the following prisoners from payment of the utility fee:

1. Prisoners at reception centers.

2. Prisoners in the behavioral treatment unit at the special management unit.

3. ~~Developmentally disabled~~ Prisoners WITH DEVELOPMENTAL DISABILITIES who are housed in a special programs unit.

4. Prisoners who are housed in unit 8 at the Florence prison facility.

5. Prisoners who are inpatients at the Alhambra prison facility special programs psychiatric hospital.

6. Prisoners who are inpatients at the Flamenco prison facility mental health treatment unit.

D. The director shall deduct monies credited to an indigent inmate's spendable account for the payment of the utility fee.

Sec. 84. Section 32-730, Arizona Revised Statutes, is amended to read:

32-730. Biennial registration; continuing professional education

A. Except as provided in subsection ~~C~~ B of this section and in section 32-4301, the board shall require every certified public accountant, public accountant and firm to register once every two years with the board and pay a registration fee pursuant to section 32-729.

B. The registration fee for certified public accountants and public accountants may be reduced or waived by the board for registrants ~~who have become disabled~~ WITH A DISABILITY to a degree precluding the continuance of their practice for six months or more prior to the due date of any renewal fee.

C. At the time of registration, every certified public accountant and public accountant, as a prerequisite to biennial registration, shall submit to the board satisfactory proof in a manner prescribed by the board that the registrant has completed the continuing professional education requirements

established by the board. The board may grant a full or partial exemption from continuing professional education requirements or an extension of time to complete the continuing professional education requirements for registrants on a demonstration of good cause.

Sec. 85. Section 32-2107.01, Arizona Revised Statutes, is amended to read:

32-2107.01. Recorded disclaimer of unlawful restrictions

A. The commissioner shall execute and record in the office of the county recorder in each county in this state a document that disclaims the validity and enforceability of certain restrictions and covenants. The document shall contain a disclaimer in substantially the following form:

> It is the law of this state that any covenants or restrictions that are based on race, religion, color, ~~handicap~~ DISABILITY status or national origin are invalid and unenforceable. If the invalid covenant or restriction is contained in a document that is recorded in this county, it is hereby declared void.

B. The document that is executed and recorded by the commissioner shall include the legal description specified by title 11, chapter 1, article 1 for the appropriate county.

C. This section does not affect any other covenant, condition or restriction.

Sec. 86. Section 32-2133, Arizona Revised Statutes, is amended to read:

32-2133. Temporary broker's license

A. Notwithstanding any other law, the commissioner may issue a temporary license as a broker to a licensed or unlicensed person for the purpose of winding up the existing or pending business of a licensed broker in the following cases:

1. To the surviving spouse or next of kin or to the administrator or personal representative or the employee of the administrator or personal representative of a deceased licensed broker.

2. To the spouse, next of kin, employee, legal guardian or conservator of a licensed broker ~~disabled~~ IN A STATE OF DISABILITY by sickness, injury or insanity.

B. Each temporary license is for a period of not over ninety days and shall not be extended for a longer period, except that a license issued to a personal representative or administrator or the employee of the personal representative or administrator pursuant to subsection A, paragraph 1 continues until the personal representative or administrator disposes of the deceased broker's business, but not to exceed a period of fifteen months.

C. No more than one temporary license may be issued to or with respect to the same individual within any one year period.

D. A temporary licensee has the same license powers and obligations as under a permanent license.

Sec. 87. Section 32-2612, Arizona Revised Statutes, is amended to read:

32-2612. Qualifications of applicant for agency license; substantiation of work experience

A. Each applicant, if an individual, or each associate, director or manager, if the applicant is other than an individual, for an agency license to be issued pursuant to this chapter shall:

1. Be at least twenty-one years of age.

2. Be a citizen or a legal resident of the United States who is authorized to seek employment in the United States.

3. Not have been convicted of any felony or currently be under indictment for a felony.

4. Within the five years immediately preceding the application for an agency license, not have been convicted of any misdemeanor act involving:

(a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.

(b) Misconduct involving a deadly weapon as provided in section 13-3102.

(c) Dishonesty or fraud.

(d) Arson.

(e) Theft.

(f) Domestic violence.

(g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.

(h) Sexual misconduct.

5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.

6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.

7. Not be either of the following:

(a) Adjudicated mentally incompetent.

(b) Found to constitute a danger to self or others or to be ~~persistently or acutely disabled or gravely disabled~~ IN PERSISTENT OR ACUTE DISABILITY OR GRAVE DISABILITY pursuant to section 36-540.

8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.

9. Not have been convicted of acting or attempting to act as a security guard or a security guard agency without a license if a license was required.

10. Not be a registered sex offender.

B. The qualifying party for an agency license and the resident manager, if a resident manager is required pursuant to section 32-2616, shall

have at least three years of full-time experience as a manager, supervisor or administrator of a security guard agency or three years of full-time supervisory experience with any federal, United States military, state, county or municipal law enforcement agency. The qualifying party for an agency license and the resident manager, if a resident manager is required pursuant to section 32-2616, must substantiate managerial work experience claimed as years of qualifying experience and provide the exact details as to the character and nature of the experience on a form prescribed by the department and certified by the employer. On written request, an employer shall submit to the employee a written certification of prior work experience within thirty calendar days. The written certification is subject to independent verification by the department. If an employer goes out of business, the employer shall provide registered employees with a complete and accurate record of their work history. If an applicant is unable to supply written certification from an employer in whole or in part, the applicant may offer written certification from persons other than an employer covering the same subject matter for consideration by the department. The burden of proving the minimum years of experience is on the applicant.

C. The department may deny an agency license if the department determines that the applicant is unfit based on a conviction, citation or encounter with law enforcement for a statutory violation.

Sec. 88. Section 33-1125, Arizona Revised Statutes, is amended to read:

33-1125. Personal items

The following property of a debtor used primarily for personal, family or household purposes shall be exempt from process:

1. All wearing apparel not in excess of a fair market value of five hundred dollars.

2. All musical instruments provided for the debtor's individual or family use not in excess of an aggregate fair market value of four hundred dollars.

3. Domestic pets, horses, milk cows and poultry not in excess of an aggregate fair market value of eight hundred dollars.

4. All engagement and wedding rings not in excess of an aggregate fair market value of two thousand dollars.

5. The library of a debtor, including books, manuals, published materials and personal documents not in excess of an aggregate fair market value of two hundred fifty dollars.

6. One watch not in excess of a fair market value of one hundred fifty dollars.

7. One typewriter, one computer, one bicycle, one sewing machine, a family bible, a lot in any burial ground, one shotgun or one rifle or one pistol, not in excess of an aggregate fair market value of one thousand dollars.

8. Equity in one motor vehicle not in excess of six thousand dollars. If the debtor or debtor's dependent is ~~physically disabled~~ A PERSON WITH A PHYSICAL DISABILITY, the equity in the motor vehicle shall not exceed twelve thousand dollars.

9. Professionally prescribed prostheses for the debtor or a dependent of the debtor, including a wheelchair.

Sec. 89. Section 35-701, Arizona Revised Statutes, is amended to read:

35-701. Definitions

In this chapter, unless the context otherwise requires:

1. "Corporation" means any corporation organized as an authority as provided in this chapter.

2. "Designated area" means any area of this state which is either designated pursuant to section 36-1479 as a slum or blighted area as defined in section 36-1471, designated by regulation as a pocket of poverty or a neighborhood strategy area by the United States department of housing and urban development pursuant to title I of the housing and community development act of 1977 (P.L. 95-128; 42 United States Code sections 5301 through 5320), as amended, and the department of housing and urban development act (P.L. 89-174; 42 United States Code section 3535(d)) or designated by the United States department of housing and urban development as an empowerment or enterprise zone pursuant to the federal omnibus budget reconciliation act of 1993 (P.L. 103-66; 26 United States Code section 1391(g)).

3. "Governing body" means:

(a) The board or body in which the general legislative powers of the municipality or the county are vested.

(b) The Arizona board of regents with respect to a corporation formed with the permission of the Arizona board of regents.

4. "Income" means gross earnings from wages, salary, commissions, bonuses or tips from all jobs, net earnings from such person's or family's own nonfarm business, professional practice or partnership, and net earnings from such person's or family's own farm. Income includes income, other than earnings, that consists of amounts received from social security or railroad retirement, interest, dividends, veterans payments, pensions and other regular payments, public assistance or welfare payments, including aid for dependent children, old age assistance and aid to the blind or ~~totally disabled~~ PERSONS WITH TOTAL DISABILITY, but excluding separate payments for hospital or other medical care.

5. "Manufactured house" means a structure that is manufactured in a factory after June 15, 1976, that is delivered to a homesite in more than one section and that is placed on a permanent foundation. The dimensions of the completed house shall not be less than twenty feet by forty feet, the roof must be sloping, the siding and roofing must be the same as those found in site-built houses and the house must be eligible for thirty year real estate mortgage financing.

6. "Municipality" or "county" means the Arizona board of regents or any incorporated city or town, including charter cities, or any county in this state in which a corporation may be organized and in which it is contemplated the corporation will function.

7. "Persons of low and moderate income" means, for the purposes of financing owner-occupied single family dwelling units in areas which the municipality has found, pursuant to section 36-1479, to be slum or blighted areas, as defined in section 36-1471, persons and families whose income does not exceed two and one-half times the median family income of this state. In all other areas it means persons and families whose income does not exceed one and one-half times the median family income of this state.

8. "Project" means any land, any building or any other improvement and all real and personal properties, including machinery and equipment whether or not now in existence or under construction and whether located within or without this state or the municipality or county approving the formation of the corporation, that are suitable for any of the following:

(a) With respect to a corporation formed with the permission of a municipality or county other than the Arizona board of regents:

(i) Any enterprise for the manufacturing, processing or assembling of any agricultural or manufactured products.

(ii) Any commercial enterprise for the storing, warehousing, distributing or selling of products of agriculture, mining or industry, or of processes related thereto, including research and development.

(iii) Any office building or buildings for use as corporate or company headquarters or regional offices or the adaptive use for offices of any building within this state that is on the national register of historic places or rehabilitation of residential buildings located in registered historic neighborhoods.

(iv) A health care institution as defined in section 36-401.

(v) Residential real property for dwelling units located within the municipality or county approving the formation of the corporation and, in the case of a county, whether or not also within a municipality that is within the county.

(vi) Repairing or rehabilitating single family dwelling units or constructing or repairing residential fences and walls.

(vii) Convention or trade show facilities.

(viii) Airports, docks, wharves, mass commuting facilities, parking facilities or storage or training facilities directly related to any of the facilities as provided in this item.

(ix) Sewage or solid waste disposal facilities or facilities for the furnishing of electric energy, gas or water.

(x) Industrial park facilities.

(xi) Air or water pollution control facilities.

(xii) Any educational institution that is operated by a nonprofit educational organization that is exempt from taxation under section 501(c)(3)

of the United States internal revenue code and that is not otherwise funded by state monies, any educational institution or organization that is established under title 15, chapter 1, article 8 and that is owned by a nonprofit organization, any private nonsectarian school or any private nonsectarian organization established for the purpose of funding a joint technical education school district.

(xiii) Research and development facilities.

(xiv) Commercial enterprises, including facilities for office, recreational, hotel, motel and service uses if the facilities authorized by this item are to be located in a designated area.

(xv) A child welfare agency, as defined in section 8-501, owned and operated by a nonprofit organization.

(xvi) A transportation facility constructed or operated pursuant to title 28, chapter 22.

(xvii) A museum operated by a nonprofit organization.

(xviii) Facilities owned or operated by a nonprofit organization described in section 501(c) of the United States internal revenue code of 1986.

(xix) New or existing correctional facilities within this state.

(b) With respect to a corporation formed with the permission of the Arizona board of regents, any facility consisting of classrooms, lecture halls or conference centers or any facility for research and development or for manufacturing, processing, assembling, marketing, storing and transferring items developed through or connected with research and development or in which the results of such research and development are utilized, but only if the facility is located in an area designated as a research park by the Arizona board of regents.

9. "Property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to a project and any other personal properties deemed necessary in connection with a project.

10. "Research park" means an area of land that has been designated by the Arizona board of regents as a research park for a university and that, at the date of designation, is owned by this state or by the Arizona board of regents.

11. "Single family dwelling unit" includes any new, used or manufactured house that meets the insuring requirements of the federal housing administration, the ~~veterans administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS or any other insuring entity of the United States government or any private mortgage insurance or surety company that is approved by the federal home loan mortgage corporation or the federal national mortgage association.

Sec. 90. Section 36-104, Arizona Revised Statutes, is amended to read:

36-104. Powers and duties

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:

(a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds utilized by the department.

(b) Public health support services, which shall include at a minimum:

(i) Consumer health protection programs that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.

(ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.

(iii) Laboratory services programs.

(iv) Health education and training programs.

(v) Disposition of human bodies programs.

(c) Community health services, which shall include at a minimum:

(i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.

(ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring.

(iii) ~~Physically disabled children's~~ CHILDREN WITH PHYSICAL DISABILITIES services programs.

(iv) Programs for the prevention and early detection of an intellectual disability.

(d) Program planning, which shall include at least the following:

(i) An organizational unit for comprehensive health planning programs.

(ii) Program coordination, evaluation and development.

(iii) Need determination programs.

(iv) Health information programs.

2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.

3. Make rules and regulations for the organization and proper and efficient operation of the department.

4. Determine when a health care emergency or medical emergency situation exists or occurs within the state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor. The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.

5. Provide a system of unified and coordinated health services and programs between the state and county governmental health units at all levels of government.

6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of funds.

8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.

9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information.

10. Establish and maintain separate financial accounts as required by federal law or regulations.

11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.

12. Take appropriate steps to reduce or contain costs in the field of health services.

13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.

14. Encourage an effective use of available federal resources in this state.

15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.

16. Promote the effective utilization of health manpower and health facilities that provide health care for the citizens of this state.

17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.

18. Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.

19. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.

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

21. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.

22. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are no lapsing and do not revert to the state general fund at the close of the fiscal year.

23. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.

24. Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available. Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from

the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

Sec. 91. Section 36-132, Arizona Revised Statutes, is amended to read:

36-132. Department of health services; functions; contracts

A. The department shall, in addition to other powers and duties vested in it by law:

1. Protect the health of the people of the state.

2. Promote the development, maintenance, efficiency and effectiveness of local health departments or districts of sufficient population and area that they can be sustained with reasonable economy and efficient administration, provide technical consultation and assistance to local health departments or districts, provide financial assistance to local health departments or districts and services that meet minimum standards of personnel and performance and in accordance with a plan and budget submitted by the local health department or districts to the department for approval, and recommend the qualifications of all personnel.

3. Collect, preserve, tabulate and interpret all information required by law in reference to births, deaths and all vital facts, and obtain, collect and preserve information relating to the health of the people of the state and the prevention of diseases as may be useful in the discharge of functions of the department not in conflict with the provisions of chapter 3 of this title, and sections 36-693, 36-694 and 39-122.

4. Operate such sanitariums, hospitals or other facilities assigned to the department by law or by the governor.

5. Conduct a statewide program of health education relevant to the powers and duties of the department, prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities, and prepare and disseminate technical information concerning public health to the health professions, local health officials and hospitals. In cooperation with the department of education, the department of health services shall prepare and disseminate materials and give technical assistance for the purpose of education of children in hygiene, sanitation and personal and public health, and provide consultation and assistance in community organization to counties, communities and groups of people.

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in

1 official public health work, and encourage and aid in coordinating local
2 public health nursing services.
3 7. Encourage and aid in coordinating local programs concerning control
4 of preventable diseases in accordance with statewide plans that shall be
5 formulated by the department.
6 8. Encourage and aid in coordinating local programs concerning
7 maternal and child health, including midwifery, antepartum and postpartum
8 care, infant and preschool health and the health of school children,
9 including special fields such as the prevention of blindness and conservation
10 of sight and hearing.
11 9. Encourage and aid in the coordination of local programs concerning
12 nutrition of the people of the state.
13 10. Encourage, administer and provide dental health care services and
14 aid in coordinating local programs concerning dental public health, in
15 cooperation with the Arizona dental association. The department may bill and
16 receive payment for costs associated with providing dental health care
17 services and shall deposit the monies in the oral health fund established by
18 section 36-138.
19 11. Establish and maintain adequate serological, bacteriological,
20 parasitological, entomological and chemical laboratories with qualified
21 assistants and facilities necessary for routine examinations and analyses and
22 for investigations and research in matters affecting public health.
23 12. Supervise, inspect and enforce the rules concerning the operation
24 of public bathing places and public and semipublic swimming pools adopted
25 pursuant to section 36-136, subsection H, paragraph 10.
26 13. Take all actions necessary or appropriate to ensure that bottled
27 water sold to the public and water used to process, store, handle, serve and
28 transport food and drink are free from filth, disease-causing substances and
29 organisms and unwholesome, poisonous, deleterious or other foreign
30 substances. All state agencies and local health agencies involved with water
31 quality shall provide to the department any assistance requested by the
32 director to ensure that this paragraph is effectuated.
33 14. Enforce the state food, caustic alkali and acid laws in accordance
34 with chapter 2, article 2 of this title, chapter 8, article 1 of this title
35 and chapter 9, article 4 of this title, and collaborate in the enforcement of
36 the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United
37 States Code sections 1 through 905).
38 15. Recruit and train personnel for state, local and district health
39 departments.
40 16. Conduct continuing evaluations of state, local and district public
41 health programs, study and appraise state health problems and develop broad
42 plans for use by the department and for recommendation to other agencies,
43 professions and local health departments for the best solution of these
44 problems.

17. License and regulate health care institutions according to chapter 4 of this title.

18. Issue or direct the issuance of licenses and permits required by law.

19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

20. Subject to the availability of monies, develop and administer programs in perinatal health care, including:

(a) Screening in early pregnancy for detecting high risk conditions.

(b) Comprehensive prenatal health care.

(c) Maternity, delivery and postpartum care.

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

Sec. 92. Section 36-136, Arizona Revised Statutes, is amended to read:

36-136. Powers and duties of director; compensation of personnel

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

5. Provide for the examination of any premises if the director has reasonable cause to believe that on the premises there exists a violation of any health law or rule of the state.

6. Exercise general supervision over all matters relating to sanitation and health throughout the state. When in the opinion of the director it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The director may enter, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public washroom, public restroom, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and any premises in which the director has reason to believe there exists a violation of any health law or rule of the state that the director has the duty to administer.

7. Prepare sanitary and public health rules.

8. Perform other duties prescribed by law.

B. If the director has reasonable cause to believe that there exists a violation of any health law or rule of the state, the director may inspect any person or property in transportation through the state, and any car, boat, train, trailer, airplane or other vehicle in which that person or

property is transported, and may enforce detention or disinfection as reasonably necessary for the public health if there exists a violation of any health law or rule.

C. The director may deputize, in writing, any qualified officer or employee in the department to do or perform on the director's behalf any act the director is by law empowered to do or charged with the responsibility of doing.

D. The director may delegate to a local health department, county environmental department or public health services district any functions, powers or duties that the director believes can be competently, efficiently and properly performed by the local health department, county environmental department or public health services district if:

1. The director or superintendent of the local health agency, environmental agency or public health services district is willing to accept the delegation and agrees to perform or exercise the functions, powers and duties conferred in accordance with the standards of performance established by the director.

2. Monies appropriated or otherwise made available to the department for distribution to or division among counties or public health services districts for local health work may be allocated or reallocated in a manner designed to assure the accomplishment of recognized local public health activities and delegated functions, powers and duties in accordance with applicable standards of performance. Whenever in the director's opinion there is cause, the director may terminate all or a part of any delegation and may reallocate all or a part of any funds that may have been conditioned on the further performance of the functions, powers or duties conferred.

E. The compensation of all personnel shall be as determined pursuant to section 38-611.

F. The director may make and amend rules necessary for the proper administration and enforcement of the laws relating to the public health.

G. Notwithstanding subsection H, paragraph 1 of this section, the director may define and prescribe emergency measures for detecting, reporting, preventing and controlling communicable or infectious diseases or conditions if the director has reasonable cause to believe that a serious threat to public health and welfare exists. Emergency measures are effective for no longer than eighteen months.

H. The director, by rule, shall:

1. Define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases. The rules shall declare certain diseases reportable. The rules shall prescribe measures, including isolation or quarantine, reasonably required to prevent the occurrence of, or to seek early detection and alleviation of, disability, insofar as possible, from communicable or preventable diseases. The rules shall include reasonably necessary measures to control animal diseases transmittable to humans.

2. Define and prescribe reasonably necessary measures, in addition to those prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment and transportation of dead human bodies and the conduct of funerals, relating to and restricted to communicable diseases and regarding the removal, transportation, cremation, interment or disinterment of any dead human body.

3. Define and prescribe reasonably necessary procedures not inconsistent with law in regard to the use and accessibility of vital records, delayed birth registration and the completion, change and amendment of vital records.

4. Except as relating to the beneficial use of wildlife meat by public institutions and charitable organizations pursuant to title 17, prescribe reasonably necessary measures to assure that all food or drink, including meat and meat products and milk and milk products sold at the retail level, provided for human consumption is free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measures governing the production, processing, labeling, storing, handling, serving and transportation of these products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any warehouse, restaurant or other premises, except a meat packing plant, slaughterhouse, wholesale meat processing plant, dairy product manufacturing plant or trade product manufacturing plant. The rules shall prescribe minimum standards for any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. The rules shall provide for the inspection and licensing of premises and vehicles so used, and for abatement as public nuisances of any premises or vehicles that do not comply with the rules and minimum standards. The rules shall provide an exemption relating to food or drink that is:

(a) Served at a noncommercial social event that takes place at a workplace, such as a potluck.

(b) Prepared at a cooking school that is conducted in an owner-occupied home.

(c) Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes.

(d) Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising or an employee social event.

(e) Offered at a child care facility and limited to commercially prepackaged food that is not potentially hazardous and whole fruits and vegetables that are washed and cut on site for immediate consumption.

(f) Offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous.

(g) Baked and confectionary goods that are not potentially hazardous and that are prepared in a kitchen of a private home for commercial purposes

if packaged with a label that clearly states the address of the maker, includes contact information for the maker, lists all the ingredients in the product and discloses that the product was prepared in a home. The label must be given to the final consumer of the product. If the product was made in a facility for ~~developmentally disabled~~ individuals WITH DEVELOPMENTAL DISABILITIES, the label must also disclose that fact. The person preparing the food or supervising the food preparation must obtain a food handler's card or certificate if one is issued by the local county and must register with an online registry established by the department pursuant to paragraph 13 of this subsection. For the purposes of this subdivision, "potentially hazardous" means baked and confectionary goods that meet the requirements of the food code published by the United States food and drug administration, as modified and incorporated by reference by the department by rule.

5. Prescribe reasonably necessary measures to assure that all meat and meat products for human consumption handled at the retail level are delivered in a manner and from sources approved by the Arizona department of agriculture and are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe standards for sanitary facilities to be used in identity, storage, handling and sale of all meat and meat products sold at the retail level.

6. Prescribe reasonably necessary measures regarding production, processing, labeling, handling, serving and transportation of bottled water to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained at any source of water, bottling plant and truck or vehicle in which bottled water is produced, processed, stored or transported and shall provide for inspection and certification of bottled drinking water sources, plants, processes and transportation and for abatement as a public nuisance of any water supply, label, premises, equipment, process or vehicle that does not comply with the minimum standards. The rules shall prescribe minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at intervals prescribed in the standards.

7. Define and prescribe reasonably necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the preservation or storage of food for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. The rules shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice that shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported and shall provide for inspection and licensing of the premises and vehicles, and

for abatement as public nuisances of ice, premises, equipment, processes or vehicles that do not comply with the minimum standards.

8. Define and prescribe reasonably necessary measures concerning sewage and excreta disposal, garbage and trash collection, storage and disposal, and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels. The rules shall prescribe minimum standards for preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage and disposal and water supply for recreational and summer camps, campgrounds, motels, tourist courts, trailer coach parks and hotels and shall provide for inspection of these premises and for abatement as public nuisances of any premises or facilities that do not comply with the rules.

9. Define and prescribe reasonably necessary measures concerning the sewage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public schools. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained in any public school and shall provide for inspection of these premises and facilities and for abatement as public nuisances of any premises that do not comply with the minimum standards.

10. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious health conditions at these places. The rules shall prescribe minimum standards for sanitary conditions that shall be maintained at any public or semipublic swimming pool or bathing place and shall provide for inspection of these premises and for abatement as public nuisances of any premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of environmental quality and shall be consistent with the rules adopted by the director of the department of environmental quality pursuant to section 49-104, subsection B, paragraph 12.

11. Prescribe reasonably necessary measures to keep confidential information relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients. In no event shall confidential information be made available for political or commercial purposes.

12. Prescribe reasonably necessary measures regarding human immunodeficiency virus testing as a means to control the transmission of that virus, including the designation of anonymous test sites as dictated by current epidemiologic and scientific evidence.

13. Establish an online registry of food preparers that are authorized to prepare food for commercial purposes pursuant to paragraph 4 of this subsection.

I. The rules adopted under the authority conferred by this section shall be observed throughout the state and shall be enforced by each local board of health or public health services district, but this section does not

limit the right of any local board of health or county board of supervisors to adopt ordinances and rules as authorized by law within its jurisdiction, provided that the ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the director.

J. The powers and duties prescribed by this section do not apply in instances in which regulatory powers and duties relating to public health are vested by the legislature in any other state board, commission, agency or instrumentality, except that with regard to the regulation of meat and meat products, the department of health services and the Arizona department of agriculture within the area delegated to each shall adopt rules that are not in conflict.

K. The director, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

L. After consultation with the state superintendent of public instruction, the director shall prescribe the criteria the department shall use in deciding whether or not to notify a local school district that a pupil in the district has tested positive for the human immunodeficiency virus antibody. The director shall prescribe the procedure by which the department shall notify a school district if, pursuant to these criteria, the department determines that notification is warranted in a particular situation. This procedure shall include a requirement that before notification the department shall determine to its satisfaction that the district has an appropriate policy relating to nondiscrimination of the infected pupil and confidentiality of test results and that proper educational counseling has been or will be provided to staff and pupils.

M. Until the department adopts exemptions by rule as required by subsection H, paragraph 4, subdivision (f) of this section, food and drink is exempt from the rules prescribed in subsection H of this section if offered at locations that sell only commercially prepackaged food or drink that is not potentially hazardous, without a limitation on its display area.

Sec. 93. Section 36-203, Arizona Revised Statutes, is amended to read:

36-203. <u>Persons with intellectual disabilities assigned to state hospital; duties of division</u>

A. The division shall develop and provide, in coordination with the department of economic security, specialized treatment programs for persons with an intellectual disability who have been admitted to the state hospital. The division may contract with the department of economic security in providing these programs.

B. The division, to the extent practicable, shall provide separate areas at the state hospital for persons diagnosed ~~as intellectually disabled~~ WITH INTELLECTUAL DISABILITIES and, to the extent practicable, shall provide that treatment programs developed pursuant to subsection A of this section

are separate from treatment programs for other patients and for separate use of facilities by persons diagnosed ~~as intellectually disabled~~ WITH INTELLECTUAL DISABILITIES.

C. The division, on request of a parent or guardian of a minor with an intellectual disability or the guardian of an adult with an intellectual disability or on the request of an adult with an intellectual disability, shall notify the department of economic security before the release of that person from the state hospital and request that the department of economic security provide placement evaluation and case management services for that person. The evaluation shall consider the person's needs for housing, day programs, employment training, employment and support services.

D. The division, on the application of a parent or guardian of a minor with an intellectual disability or the guardian of ~~a mentally retarded~~ AN adult WITH AN INTELLECTUAL DISABILITY or on the request of an adult with an intellectual disability, when the person has been authorized for discharge from the state hospital, may provide interim care and custody for that person pending the availability of intellectual disability programs and services in accordance with section 36-556.

Sec. 94. Section 36-260, Arizona Revised Statutes, is amended to read:

36-260. Definitions

In this article, unless the context otherwise requires:

1. "Administration" means the Arizona health care cost containment system administration.

2. "Chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES" means children who are under twenty-one years of age and whose primary diagnosis is a severe physical condition that may require ongoing, medical or surgical intervention.

3. "Director" means the director of the Arizona health care cost containment system administration.

Sec. 95. Section 36-261, Arizona Revised Statutes, is amended to read:

36-261. Powers and duties; expenditure limitation

A. The Arizona health care cost containment system administration shall:

1. Employ a full-time or part-time medical director and a full-time or part-time administrator for children's rehabilitative services who shall have such titles and duties as shall be fixed by the director. Compensation of the medical director and the administrator shall be as determined pursuant to section 38-611.

2. Supervise, control and establish policies for children's rehabilitative services.

3. Adopt all rules and policies for the operation of a children's rehabilitative services program.

4. Employ necessary medical and other staff, including resident physicians, whose compensation shall be as determined pursuant to section 38-611.

5. Establish and administer a program of service for children who are chronically ill or ~~physically disabled~~ CHILDREN WITH PHYSICAL DISABILITIES or who are suffering from conditions that lead to a chronic illness or physical disabilities. The program shall provide for:

(a) Development, extension and improvement of services for locating these children.

(b) Furnishing of medical, surgical, corrective and other services and care.

(c) Furnishing of facilities for diagnosis, hospitalization and aftercare.

(d) Supervision of the administration of services in the program that are not administered directly by the administration.

(e) The extension and improvement of any services included in the program of services for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES as required by this section.

(f) Cooperation with medical, health, nursing and welfare groups and organizations and with any agency of the state charged with administration of laws providing for vocational rehabilitation of ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

(g) Cooperation with the federal government through its appropriate agency or instrumentality in developing, extending and improving services for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

(h) Receipt and expenditure of funds made available to the administration for services to chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES by the federal government, this state or its political subdivisions or from other sources, excluding monies received from parents or guardians for the care of children.

(i) Carrying on research and compiling statistics.

(j) Making necessary expenditures in connection with the duties provided in this section.

(k) Establishing and maintaining safeguards relating to the confidential aspect of medical records.

(l) Acceptance and use of federal funds for children's rehabilitative services at the discretion of the administration and subject to any limitations imposed by the annual state appropriation bill.

(m) Such other duties found necessary for the effective operation of a program for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

6. Establish a statewide computerized information and referral service for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES to link those children and their families with local service providers.

7. Deposit in the state general fund all monies received from parents or guardians for the care of children.

8. Deposit in the state general fund all monies received from adults, other responsible persons, agencies or third-party payors for care provided pursuant to section 36-797.44.

B. In order to carry out subsection A of this section, the director may operate outpatient treatment facilities for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES and shall contract on the basis of competitive sealed bids for the care and treatment of chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES pursuant to subsection C of this section.

C. The director shall prepare and issue a public request for proposal including a proposed contract format, at least once every four years, to contract for the care and treatment of chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES subject to the following authorizations and limitations:

1. The scope of the contracted services shall include inpatient treatment services, physician services and other care and treatment services and outpatient treatment services that shall not be mandated at a single location.

2. Bids may be accepted from hospital and medical service corporations, health care services organizations, hospitals, physicians and any other qualified public or private persons.

3. A bidder's direct costs, as defined in the request for proposal, shall be disclosed in and be the basis of the bid submitted. Direct costs shall not include depreciable real or personal property with an original cost of over one thousand dollars. For bid evaluation purposes only, the director shall specify a uniform assumed collection rate applicable to all bidders. If the director executes fee-for-services health care contracts, the contracts shall provide the maximum payment to be made for specific procedures and services.

4. The administration may award a contract at an amount less than the amount bid, by use of any procedure authorized by the procurement code.

5. If the director receives an insufficient number of bids for a category of services or in a medical emergency, the director may contract directly for these services.

6. An invitation for bids, a request for proposals or any other solicitation may be cancelled or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation if it is in the best interests of this state. The reasons for the cancellation or rejection shall be made part of the contract file. If the amount appropriated for services provided pursuant to this section is insufficient to pay for the scope of services as bid, the director may reduce the scope of services to reflect the amount appropriated or may cancel any invitation for bids, requests for proposals or other solicitation and contract directly for these services. Reductions or suspensions do not apply to the continuity of care

for persons already receiving the services. Any decision to reduce services shall be made independently from any other modification of services.

7. Title 41, chapter 23 shall apply to the procurement process prescribed in this section to the extent that it is not inconsistent with this section. The director may vary the bid format and the terms of the request for proposal each bid term.

D. In awarding contracts for inpatient and outpatient treatment services under this section, the administration shall use the following criteria in addition to other consistent criteria:

1. Cost to this state.

2. The treatment facility's demonstrated experience in and qualifications for providing pediatric services.

E. If the provision of any services pursuant to this section requires compliance with chapter 4, article 2 of this title, the contractor shall comply before commencement of services pursuant to this section.

F. Subject to the availability of appropriations, the administration may provide or arrange for the provision of health services and supervisory care for child patients of other state agencies.

G. The administration, through the children's rehabilitative services division, may establish and administer a program for children with sickle cell anemia, as provided for in section 36-797.43.

H. The administration, through the children's rehabilitative services division, may establish and administer a program for adults with sickle cell anemia, as provided for in section 36-797.44.

I. The director may provide for the education of inpatients at any facility that contracts with the director to provide care and treatment of chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES. The director shall include in the director's annual proposed budget a request for sufficient monies to finance the education of inpatients as authorized in this subsection.

J. The total amount of state monies that may be spent in any fiscal year by the administration for children's rehabilitative services shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section does not impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

Sec. 96. Section 36-262, Arizona Revised Statutes, is amended to read:

36-262. Central statewide information and referral service for chronically ill or children with physical disabilities

A. The purposes of the information and referral service for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES as prescribed pursuant to this article are to:

1. Establish a roster of agencies providing medical, educational, financial, social and transportation services to chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

2. Develop or use an existing statewide, computerized information and referral service that provides information on services for chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

B. This section does not require any person or public or private agency or other entity to participate in the information and referral service.

Sec. 97. Section 36-263, Arizona Revised Statutes, is amended to read:

36-263. Eligibility for children's rehabilitative services

A. Any chronically ill or ~~physically disabled~~ person WITH PHYSICAL DISABILITIES or the person's parent or legal guardian who applies for children's rehabilitative services is subject to a preliminary financial screening process developed by the administration at the initial intake level. If the results of a screening indicate that a child may be title XIX eligible, in order to continue to receive services pursuant to this article the applicant must then submit a complete application within ten working days to the department of economic security, or the administration, which shall determine the applicant's eligibility pursuant to section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 for health and medical or long-term care services. If the person is in need of emergency services provided pursuant to this article, the person may begin to receive these services immediately, provided that within five days from the date of service a financial screen is initiated.

B. Applicants who refuse to cooperate in the financial screen and eligibility process are not eligible for services pursuant to this article. A form explaining loss of benefits due to refusal to cooperate shall be signed by the applicant. Refusal to cooperate shall not be construed to mean the applicant's inability to obtain documentation required for eligibility determination.

C. The department of economic security, in coordination with the administration, shall provide on-site eligibility determination at appropriate program locations subject to legislative appropriation.

D. This section only applies to persons who receive services that are provided pursuant to this section and that are paid for in whole or in part with state funds.

E. Notwithstanding any other law, the administration shall not provide services in the children's rehabilitative services non-title XIX program to persons who are not citizens of the United States or who do not meet the alienage requirements that are established pursuant to title XIX of the social security act. This subsection does not apply to persons who are receiving services before August 6, 1999.

Sec. 98. Section 36-481, Arizona Revised Statutes, is amended to read:

36-481. Definitions

In this chapter, unless the context otherwise requires:

1. "Acquire" means purchase, lease as lessee, obtain an interest as mortgagee or beneficiary under a deed of trust, erect, build, construct, reconstruct, remodel, repair, replace, alter, extend, better, equip, furnish, develop, improve or embellish any health care facility, or site acquisition, preparation and development and all incidental expenditures.

2. "Agreement" means any loan or other agreement, contract, note, mortgage, deed of trust, trust indenture, lease, sublease or other such instrument entered into by the authority.

3. "Authority" means the Arizona health facilities authority.

4. "Board" means the board of directors of the authority.

5. "Bonds" means any bonds issued pursuant to this chapter and includes any obligation, in any form, entered into by the authority that pays interest that is exempt from gross income pursuant to 26 United States Code section 103.

6. "Costs" means all costs incurred in the issuance of bonds, including, but not limited to, legal, accounting, consulting, printing, advertising and travel expenses, plus an amount equal to not more than one-tenth of one per cent of the principal amount of any bonds issued to be used to defray the authority's operational and administrative costs and may also include interest on bonds issued pursuant to this chapter for a reasonable time prior to and during construction and after completion of construction of any project.

7. "Federal agency" means the United States, the President of the United States, the department of health and human services, the department of the treasury or any other agency or agencies of the United States as may be designated or created to make loans or grants or both.

8. "Health care facility" or "project" means a structure suitable for use as a hospital, either general or specializing in the treatment of certain diseases, or suitable for use as a clinic, rehabilitation center, therapy facility, outpatient clinic, nursing home, blood bank, ambulance facility, extended care facility or other health care facility or any combination of the foregoing and includes all the customary and necessary supporting services and equipment such as dispensary, pharmacy, parking facilities, laundry facilities, nurses' and interns' residences, offices and administration buildings, living facilities for the elderly or ~~disabled~~ PERSONS WITH A DISABILITY, cafeterias and food service facilities, research, laboratory and diagnostic facilities, education facilities, medical and surgical equipment, tools and machinery, but not such items as fuel or stored energy and supplies or disposable items that are customarily deemed to result in a current operating charge wherever situated.

9. "Participating facility" means a corporation, limited liability company, partnership or other entity that is specifically empowered to operate and maintain one or more health facilities, the university of Arizona hospital and any political subdivisions specifically empowered to lease as lessee one or more health care facilities.

10. "Trustee" means any bank or trust company with authority to exercise trust powers in this state.

Sec. 99. Section 36-501, Arizona Revised Statutes, is amended to read:

36-501. Definitions

In this chapter, unless the context otherwise requires:

1. "Admitting officer" means a psychiatrist or other physician or psychiatric and mental health nurse practitioner with experience in performing psychiatric examinations who has been designated as an admitting officer of the evaluation agency by the person in charge of the evaluation agency.

2. "Chief medical officer" means the chief medical officer under the supervision of the superintendent of the state hospital.

3. "Contraindicated" means that access is reasonably likely to endanger the life or physical safety of the patient or another person.

4. "Court" means the superior court in the county in this state in which the patient resides or was found before screening or emergency admission under this title.

5. "Danger to others" means that the judgment of a person who has a mental disorder is so impaired that the person is unable to understand the person's need for treatment and as a result of the person's mental disorder the person's continued behavior can reasonably be expected, on the basis of competent medical opinion, to result in serious physical harm.

6. "Danger to self":

(a) Means behavior that, as a result of a mental disorder:

(i) Constitutes a danger of inflicting serious physical harm on oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out.

(ii) Without hospitalization will result in serious physical harm or serious illness to the person.

(b) Does not include behavior that establishes only the condition of ~~gravely disabled~~ PERSONS WITH GRAVE DISABILITIES.

7. "Department" means the department of health services.

8. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.

9. "Detention" means the taking into custody of a patient or proposed patient.

10. "Director" means the director of the department.

11. "Division" means the division of behavioral health in the department.

12. "Evaluation" means:

(a) A professional multidisciplinary analysis that may include firsthand observations or remote observations by interactive audiovisual media and that is based on data describing the person's identity, biography and medical, psychological and social conditions carried out by a group of persons consisting of not less than the following:

(i) Two licensed physicians, who shall be qualified psychiatrists, if possible, or at least experienced in psychiatric matters, and who shall examine and report their findings independently. The person against whom a petition has been filed shall be notified that the person may select one of the physicians. A psychiatric resident in a training program approved by the American medical association or by the American osteopathic association may examine the person in place of one of the psychiatrists if the resident is supervised in the examination and preparation of the affidavit and testimony in court by a qualified psychiatrist appointed to assist in the resident's training, and if the supervising psychiatrist is available for discussion with the attorneys for all parties and for court appearance and testimony if requested by the court or any of the attorneys.

(ii) Two other individuals, one of whom, if available, shall be a psychologist and in any event a social worker familiar with mental health and human services that may be available placement alternatives appropriate for treatment. An evaluation may be conducted on an inpatient basis, an outpatient basis or a combination of both, and every reasonable attempt shall be made to conduct the evaluation in any language preferred by the person.

(b) A physical examination that is consistent with the existing standards of care and that is performed by one of the evaluating physicians or by or under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15 if the results of that examination are reviewed or augmented by one of the evaluating physicians.

13. "Evaluation agency" means a health care agency that is licensed by the department and that has been approved pursuant to this title, providing those services required of such agency by this chapter.

14. "Family member" means a spouse, parent, adult child, adult sibling or other blood relative of a person undergoing treatment or evaluation pursuant to this chapter.

~~16.~~ 15. "Health care decision maker" has the same meaning prescribed in section 12-2801.

~~17.~~ 16. "Health care entity" means a health care provider, the department, the Arizona health care cost containment system administration or a regional behavioral health authority under contract with the department.

~~18.~~ 17. "Health care provider" means a health care institution as defined in section 36-401 that is licensed as a behavioral health provider pursuant to department rules or a mental health provider.

~~19.~~ 18. "Independent evaluator" means a licensed physician, psychiatric and mental health nurse practitioner or psychologist selected by the person to be evaluated or by such person's attorney.

~~20.~~ 19. "Informed consent" means a voluntary decision following presentation of all facts necessary to form the basis of an intelligent consent by the patient or guardian with no minimizing of known dangers of any procedures.

~~21.~~ 20. "Least restrictive treatment alternative" means the treatment plan and setting that infringe in the least possible degree with the patient's right to liberty and that are consistent with providing needed treatment in a safe and humane manner.

~~22.~~ 21. "Licensed physician" means any medical doctor or doctor of osteopathy who is either:

(a) Licensed in this state.

(b) A full-time hospital physician licensed in another state and serving on the staff of a hospital operated or licensed by the United States government.

~~23.~~ 22. "Medical director of an evaluation agency" means a psychiatrist, or other licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency for the purposes of this chapter and may include the chief medical officer of the state hospital.

~~24.~~ 23. "Medical director of a mental health treatment agency" means a psychiatrist, or other licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency for the purposes of this chapter and includes the chief medical officer of the state hospital.

~~25.~~ 24. "Mental disorder" means a substantial disorder of the person's emotional processes, thought, cognition or memory. Mental disorder is distinguished from:

(a) Conditions that are primarily those of drug abuse, alcoholism or intellectual disability, unless, in addition to one or more of these conditions, the person has a mental disorder.

(b) The declining mental abilities that directly accompany impending death.

(c) Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder.

~~26.~~ 25. "Mental health provider" means any physician or provider of mental health or behavioral health services involved in evaluating, caring for, treating or rehabilitating a patient.

~~27.~~ 26. "Mental health treatment agency" means the state hospital or a health care agency that is licensed by the department and that provides those services that are required of the agency by this chapter.

~~28.~~ 27. "Outpatient treatment" or "combined inpatient and outpatient treatment" means any treatment program not requiring continuous inpatient hospitalization.

~~29.~~ 28. "Outpatient treatment plan" means a treatment plan that does not require continuous inpatient hospitalization.

~~30.~~ 29. "Patient" means any person undergoing examination, evaluation or behavioral or mental health treatment under this chapter.

~~31.~~ 30. "Peace officers" means sheriffs of counties, constables, marshals and policemen of cities and towns.

~~32.~~ 31. "~~Persistently or acutely disabled~~ PERSISTENT OR ACUTE DISABILITY" means a severe mental disorder that meets all the following criteria:

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person's capacity to make an informed decision regarding treatment, and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

~~15.~~ 32. "~~Gravely disabled~~ PERSONS WITH GRAVE DISABILITIES" means a condition evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm or serious illness because the person is unable to provide for the person's own basic physical needs.

33. "Prepetition screening" means the review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such application, an interview with each applicant and an interview, if possible, with the proposed patient. The purpose of the interview with the proposed patient is to assess the problem, explain the application and, when indicated, attempt to persuade the proposed patient to receive, on a voluntary basis, evaluation or other services.

34. "Prescribed form" means a form established by a court or the rules of the division that have been approved by the director or in accordance with the laws of this state.

35. "Professional" means a physician who is licensed pursuant to title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title 32,

chapter 19.1 or a psychiatric and mental health nurse practitioner who is certified pursuant to title 32, chapter 15.

36. "Proposed patient" means a person for whom an application for evaluation has been made or a petition for court-ordered evaluation has been filed.

37. "Psychiatric and mental health nurse practitioner" means a registered nurse practitioner as defined in section 32-1601 who has completed an adult or family psychiatric and mental health nurse practitioner program and who is certified as an adult or family psychiatric and mental health nurse practitioner by the state board of nursing.

38. "Psychiatrist" means a licensed physician who has completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association.

39. "Psychologist" means a person who is licensed under title 32, chapter 19.1 and who is experienced in the practice of clinical psychology.

40. "Records" means all communications that are recorded in any form or medium and that relate to patient examination, evaluation or behavioral or mental health treatment. Records include medical records that are prepared by a health care provider or other providers. Records do not include:

(a) Materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

(b) Recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity.

41. "Screening agency" means a health care agency that is licensed by the department and that provides those services required of such agency by this chapter.

42. "Social worker" means a person who has completed two years of graduate training in social work in a program approved by the council of social work education and who has experience in mental health.

43. "State hospital" means the Arizona state hospital.

44. "Superintendent" means the superintendent of the state hospital.

Sec. 100. Section 36-519, Arizona Revised Statutes, is amended to read:

36-519. <u>Discharge of voluntary patients</u>

A. The medical director of the agency shall discharge any patient admitted voluntarily who has recovered or who is no longer benefiting from the evaluation, care or treatment available, except as provided in subsection B of this section.

B. Upon written request by a patient admitted pursuant to section 36-518, subsection A or by the parent, guardian or custodian of a patient admitted pursuant to section 36-518, subsection C, the patient shall be given a discharge within twenty-four hours after the request, excluding weekends or

holidays unless the medical director of the agency has proceeded pursuant to section 36-531, subsections B and C and section 36-533. The costs of such proceedings shall be a charge against the county of the patient's residence.

C. If the medical director of the agency finds that a patient admitted voluntarily is ~~gravely disabled~~ A PERSON WITH A GRAVE DISABILITY and requires the service of a guardian or conservator or both for the protection of health and property, he shall proceed pursuant to section 36-531, subsections B and C and section 36-533 unless it is appropriate to discharge the patient to suitable alternative arrangements for care, treatment and protection.

Sec. 101. Section 36-520, Arizona Revised Statutes, is amended to read:

36-520. Application for evaluation; definition

A. Any responsible individual may apply for a court-ordered evaluation of a person who is alleged to be, as a result of a mental disorder, a danger to self or to others, ~~persistently or acutely disabled, or gravely disabled~~ A PERSON WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and who is unwilling or unable to undergo a voluntary evaluation. The application shall be made in the prescribed form and manner as adopted by the deputy director.

B. The application for evaluation shall include the following data:

1. The name, and address if known, of the proposed patient for whom evaluation is applied.

2. The age, date of birth, sex, race, marital status, occupation, social security number, present location, dates and places of previous hospitalizations, names and addresses of the guardian, spouse, next of kin and significant other persons and other data that the deputy director may require on the form to whatever extent that this data is known and is applicable to the proposed patient.

3. The name, address and relationship of the person who is applying for the evaluation.

4. A statement that the proposed patient is believed to be, as a result of a mental disorder, a danger to self or to others, ~~persistently or acutely disabled or gravely disabled~~ A PATIENT WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and the facts on which this statement is based.

5. A statement that the applicant believes the proposed patient is in need of supervision, care and treatment and the facts on which this statement is based.

C. The application shall be signed and notarized.

D. The screening agency shall offer assistance to the applicant in preparation of the application. Upon receipt of the application, the screening agency shall act as prescribed in section 36-521 within forty-eight hours of the filing of the application excluding weekends and holidays. If the application is not acted upon within forty-eight hours, the reasons for not acting promptly shall be reviewed by the director of the screening agency or the director's designee.

E. If the applicant for the court-ordered evaluation presents the person to be evaluated at the screening agency, the agency shall conduct a prepetition screening examination. Except in the case of an emergency evaluation, the person to be evaluated shall not be detained or forced to undergo prepetition screening against the person's will.

F. If the applicant for the court-ordered evaluation does not present the person to be evaluated at the screening agency, the agency shall conduct the prepetition screening at the home of the person to be evaluated or any other place the person to be evaluated is found. If prepetition screening is not possible, the screening agency shall proceed as in section 36-521, subsection B.

G. If a person is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner of that church or denomination, such person may not be ordered evaluated, detained or involuntarily treated unless the court has determined that the person is, as a result of mental disorder, a danger to others or to self.

H. Court-ordered evaluation or treatment pursuant to this chapter shall not operate to change the legal residence of a patient.

I. If the application is not acted upon because it has been determined that the proposed patient does not need an evaluation, the agency after a period of six months shall destroy the application and any other evidence of the application.

J. For the purposes of this section, "person" includes a person who:

1. Is under eighteen years of age.

2. Has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged with an offense pursuant to section 13-501.

3. Is under the supervision of an adult probation department.

Sec. 102. Section 36-521, Arizona Revised Statutes, is amended to read:

36-521. <u>Preparation of petition for court-ordered evaluation; procedures for prepetition screening</u>

A. Upon receiving the application for evaluation, the screening agency shall, prior to filing a petition for court-ordered evaluation, provide prepetition screening within forty-eight hours excluding weekends and holidays when possible to determine whether there is reasonable cause to believe the allegations of the applicant for the court-ordered evaluation, whether the person will voluntarily receive evaluation at a scheduled time and place and whether he ~~is persistently or acutely disabled, gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY, A GRAVE DISABILITY or likely to present a danger to self or others until the voluntary evaluation.

B. After prepetition screening has been completed, the screening agency shall prepare a report of opinions and conclusions. If prepetition screening is not possible, the screening agency shall prepare a report giving

reasons why the screening was not possible and including opinions and conclusions of staff members who attempted to conduct prepetition screening or otherwise investigated the matter.

C. If the prepetition screening report indicates that there exists no reasonable cause to believe the allegations of the applicant for the court-ordered evaluation, it shall be reviewed by the medical director of the screening agency or his designee.

D. If, based upon the allegations of the applicant for the court-ordered evaluation and the prepetition screening report or other information obtained while attempting to conduct a prepetition screening, the agency determines that there is reasonable cause to believe that the proposed patient is, as a result of mental disorder, a danger to self or to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and that the proposed patient is unable or unwilling to voluntarily receive evaluation or is likely to present a danger to self or to others, ~~is gravely disabled~~ HAS A GRAVE DISABILITY or will further deteriorate before receiving a voluntary evaluation, it shall prepare a petition for court-ordered evaluation and shall file the petition, which shall be signed by the person who prepared the petition unless the county attorney performs these functions. If the agency determines that there is reasonable cause to believe that the person is in such a condition that without immediate hospitalization he is likely to harm himself or others, it shall take all reasonable steps to procure such hospitalization on an emergency basis.

E. The agency may contact the county attorney in order to obtain his assistance in preparing the petition for court-ordered evaluation, and the agency may request the advice and judgment of the county attorney in reaching a decision as to whether the court-ordered evaluation is justified.

F. The county attorney may prepare or sign or file the petition if a court has ordered the county attorney to prepare the petition.

G. If a petition for court-ordered evaluation alleges danger to others as described in section 36-501, the screening agency shall, prior to filing such petition, contact the county attorney for a review of the petition. The county attorney shall examine the petition and make one of the following written recommendations:

1. That a criminal investigation is warranted.

2. That the screening agency shall file the petition.

3. That no further proceedings are warranted. The screening agency shall consider such recommendation in determining whether a court-ordered evaluation is justified and shall include such recommendation with the petition if it decides to file the petition with the court.

H. The petition shall be made in the form and manner prescribed by the deputy director.

Sec. 103. Section 36-523, Arizona Revised Statutes, is amended to read:

36-523. Petition for evaluation

A. The petition for evaluation shall contain the following:

1. The name, address and interest in the case of the individual who applied for the petition.

2. The name, and address if known, of the proposed patient for whom evaluation is petitioned.

3. The present whereabouts of the proposed patient, if known.

4. A statement alleging that there is reasonable cause to believe that the proposed patient has a mental disorder and is as a result a danger to self or others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and is unwilling or unable to undergo voluntary evaluation.

5. A summary of the facts which support the allegations that the proposed patient is dangerous, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and IS unwilling or unable to be voluntarily evaluated including the facts which brought the proposed patient to the screening agency's attention.

6. Other information that the deputy director, with the approval of the director, by rule or the court by rule or order may require.

B. The petition shall request that the court issue an order requiring that the proposed patient be given an evaluation and shall advise the court of both of the following:

1. That the opinion of the petitioner is either that the proposed patient is or is not in such a condition that without immediate or continuing hospitalization he is likely to suffer serious physical harm or further deterioration or inflict serious physical harm upon another person.

2. If the opinion of the petitioner is that the proposed patient is not in the condition described in paragraph 1 of this subsection, that the opinion of the petitioner is either that the evaluation should or should not take place on an outpatient basis.

C. The petition for evaluation shall be accompanied by the application for evaluation, by the recommendation of the county attorney pursuant to section 36-521 and by a prepetition screening report, unless such documents have not been prepared under a provision of law or in accordance with an order of the court. The petition for evaluation shall also be accompanied by a copy of the application for emergency admission if one exists.

D. A petition and other forms required in a court may be filed only by the screening agency which has prepared the petition.

E. If the petition is not filed because it has been determined that the person does not need an evaluation, the agency after a period of six months shall destroy the petition and the various reports annexed to the petition as required by this section.

Sec. 104. Section 36-529, Arizona Revised Statutes, is amended to read:

36-529. Order for evaluation; order for detention; hearing

A. If, from the review of the petition for evaluation, the court does not determine that the proposed patient is likely to present a danger to self or others or further deteriorate prior to his hearing on court-ordered treatment, but determines that there is reasonable cause to believe that the proposed patient is, as a result of a mental disorder, a danger to self or others, ~~is persistently or acutely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY or ~~is gravely disabled~~ A GRAVE DISABILITY, the court shall issue an order directing the proposed patient to submit to an evaluation at a designated time and place, specifying that the evaluation will take place on an inpatient or an outpatient basis. The court may also order that if the person does not or cannot so submit, that he be taken into custody by a police officer and delivered to an evaluation agency. If the court makes such a conditional order, it shall also make a conditional appointment of counsel for the person to become effective when and if the person is taken into custody pursuant to this section.

B. If, from review of the petition for evaluation, there is reasonable cause to believe that the proposed patient is, as a result of a mental disorder, a danger to self or others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and that the person requires immediate or continued hospitalization prior to his hearing on court-ordered treatment, the court shall order the proposed patient taken into custody and evaluated at an evaluation agency. The court shall promptly appoint counsel for the proposed patient. If an intercounty agreement authorizes the same, the court may order that the evaluation be conducted in another county, and the superior court in the county where the evaluation is conducted shall have concurrent jurisdiction to make appropriate orders concerning the proposed patient.

C. If the person is not taken into custody or if the evaluation pursuant to the order of the court under subsection A or B is not initiated within fourteen days from the date of the order, the order and petition for evaluation shall expire.

D. If the person is involuntarily hospitalized, the person shall be informed by his appointed attorney of his rights to a hearing to determine whether he should be involuntarily hospitalized for evaluation and to be represented at the hearing by an attorney. If the patient requests a hearing to determine whether he should be involuntarily hospitalized during evaluation, the court shall schedule a hearing at its first opportunity.

Sec. 105. Section 36-531, Arizona Revised Statutes, is amended to read:

36-531. Evaluation; possible dispositions; release

A. A person being evaluated on an inpatient basis in an evaluation agency shall be released if, in the opinion of the medical director of the

agency, further evaluation is not appropriate unless the person makes application for further care and treatment on a voluntary basis.

B. If it is determined upon an evaluation of the patient's condition that he is, as a result of a mental disorder, a danger to self or to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY, the medical director in charge of the agency which provided the evaluation shall, unless the person makes application for further care and treatment on a voluntary basis, prepare, sign and file a petition for court-ordered treatment unless the county attorney performs the functions of preparing, signing or filing the petition as provided in subsection C of this section.

C. The agency may contact the county attorney to obtain his assistance in preparing the petition for court-ordered treatment, and the agency may request the advice and judgment of the county attorney in reaching a decision as to whether court-ordered treatment is justified.

D. A person being evaluated on an inpatient basis in an evaluation agency shall be released within seventy-two hours, excluding weekends and holidays, from the time that he is hospitalized pursuant to a court order for evaluation, unless the person makes application for further care and treatment on a voluntary basis or unless a petition for court-ordered treatment has been filed pursuant to subsection B of this section.

E. The department of health services may conduct jointly with a school district, directly or indirectly, an educational evaluation pursuant to sections 15-765 and 15-766 for nonadjudicated youth. The evaluation information may be shared by and among authorized personnel employed by the department of health services and the department of education, or authorized personnel from the local education agency, for purposes of ensuring the provision of special education and related services as required by the individuals with disabilities education act (20 United States Code sections 1400 through 1415).

Sec. 106. Section 36-533, Arizona Revised Statutes, is amended to read:

36-533. Petition for treatment

A. The petition for court-ordered treatment shall allege:

1. That the patient is in need of a period of treatment because the patient, as a result of mental disorder, is a danger to self or to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY.

2. The treatment alternatives that are appropriate or available.

3. That the patient is unwilling to accept or incapable of accepting treatment voluntarily.

B. The petition shall be accompanied by the affidavits of the two physicians who participated in the evaluation and by the affidavit of the applicant for the evaluation, if any. The affidavits of the physicians shall describe in detail the behavior that indicates that the person, as a result

of mental disorder, is a danger to self or to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and shall be based on the physician's observations of the patient and the physician's study of information about the patient. A summary of the facts that support the allegations of the petition shall be included. The affidavit shall also include any of the results of the physical examination of the patient if relevant to the patient's psychiatric condition.

C. The petition shall request the court to issue an order requiring the person to undergo a period of treatment.

D. In cases of grave disability the petition shall also include:

1. A statement that in the opinion of the petitioner the ~~gravely disabled~~ person WITH A GRAVE DISABILITY does or does not require guardianship or conservatorship, or both, under title 14 and the reasons on which the statement is based.

2. A request that the court order an independent investigation and report for the court if in the opinion of the petitioner the person does require guardianship or conservatorship, or both.

3. A statement that in the opinion of the petitioner the ~~gravely disabled~~ person WITH A GRAVE DISABILITY does or does not require temporary guardianship or conservatorship, or both, and the reasons on which the statement is based.

4. A request that the court appoint a temporary guardian or conservator, or both, if in the opinion of the petitioner the person does require temporary guardianship or conservatorship, or both.

E. A copy of the petition in cases of grave disability shall be mailed to the public fiduciary in the county of the patient's residence or in which the patient was found before evaluation and to any person nominated as guardian or conservator.

F. A copy of all petitions shall be mailed to the superintendent of the Arizona state hospital.

Sec. 107. Section 36-535, Arizona Revised Statutes, is amended to read:

36-535. <u>Detention of proposed patient; time of hearing; released patient; intervention by division</u>

A. If, on the filing of a petition for court-ordered treatment, the patient is not then detained in an agency, the court shall order the detention of the patient in the agency that conducted the evaluation if the court determines that the patient is likely to present a danger to self or others before the conclusion of the hearing or is not likely to appear at the hearing on the petition if not detained. The court shall issue such orders as are necessary to provide for the apprehension, transportation and detention of the proposed patient. The court shall appoint counsel for the proposed patient if one has not been previously appointed.

B. The court shall order the hearing to be held within six business days after the petition is filed, except that, on good cause shown, the court may continue the hearing at the request of either party. The hearing may be continued for a maximum of thirty days at the request of the proposed patient. The hearing may be continued for a maximum of three business days at the request of the petitioner. If the hearing is continued at the request of the petitioner and the proposed patient is involuntarily hospitalized, the proposed patient may request a hearing to determine whether the proposed patient should be involuntarily hospitalized during the continuation period.

C. If after reviewing the petition with its attached material and other evidence at hand the court finds that the patient is not, as a result of mental disorder, a danger to self or others, ~~persistently or acutely disabled or gravely disabled~~ A PATIENT WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY, the patient shall be released.

D. The division, acting on behalf of the state hospital, may intervene as a party to the proceedings on any petition for court-ordered treatment and may appear as a party at the hearing on the petition by filing a written notice of intervention with the clerk of the superior court in the county in which the petition was filed, at any time before either the original time set for the hearing or the time to which the hearing is continued. The intervenor at the hearing may cross-examine any witnesses presented by other parties pursuant to section 36-539, may subpoena and present witnesses of its own, including physicians, and may present other evidence. The intervenor, on stipulation with all other parties or on order of the court, may cause physicians to personally conduct mental status examinations of the proposed patient and to testify as to their opinions concerning whether the proposed patient is, as a result of mental disorder, a danger to self or to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and as to whether the proposed patient requires treatment. This subsection applies in addition to all rules of evidence, the Arizona rules of civil procedure and section 36-539.

Sec. 108. Section 36-539, Arizona Revised Statutes, is amended to read:

36-539. <u>Conduct of hearing; record; transcript</u>

A. The medical director of the agency shall issue instructions to the physicians or the psychiatric and mental health nurse practitioner treating the proposed patient to take all reasonable precautions to ensure that at the time of the hearing the proposed patient shall not be so under the influence of or so suffer the effects of drugs, medication or other treatment as to be hampered in preparing for or participating in the hearing. The court at the time of the hearing shall be presented a record of all drugs, medication or other treatment that the person has received during the seventy-two hours immediately before the hearing.

B. The patient and the patient's attorney shall be present at all hearings, and the patient's attorney may subpoena and cross-examine witnesses

and present evidence. The patient may choose to not attend the hearing or the patient's attorney may waive the patient's presence. The evidence presented by the petitioner or the patient shall include the testimony of two or more witnesses acquainted with the patient at the time of the alleged mental disorder, which may be satisfied by a statement agreed on by the parties, and testimony of the two physicians who participated in the evaluation of the patient, which may be satisfied by stipulating to the admission of the evaluating physicians' affidavits as required pursuant to section 36-533, subsection B. The physicians shall testify as to their personal observations of the patient. They shall also testify as to their opinions concerning whether the patient is, as a result of mental disorder, a danger to self or to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and as to whether the patient requires treatment. Such testimony shall state specifically the nature and extent of the danger to self or to others, the persistent or acute disability or the grave disability. If the patient ~~is gravely disabled~~ HAS A GRAVE DISABILITY, the physicians shall testify concerning the need for guardianship or conservatorship, or both, and whether or not the need is for immediate appointment. Other persons who have participated in the evaluation of the patient or, if further treatment was requested by a mental health treatment agency, persons of that agency who are directly involved in the care of the patient shall testify at the request of the court or of the patient's attorney. Witnesses shall testify as to placement alternatives appropriate and available for the care and treatment of the patient. The clinical record of the patient for the current admission shall be available and may be presented in full or in part as evidence at the request of the court, the county attorney or the patient's attorney.

C. If the patient, for medical reasons, is unable to be present at the hearing and the hearing cannot be conducted where the patient is being treated or confined, the court shall require clear and convincing evidence that the patient is unable to be present at the hearing and on such a finding may proceed with the hearing in the patient's absence.

D. The requirements of subsection B of this section are in addition to all rules of evidence and the Arizona rules of civil procedure, not inconsistent with subsection B of this section.

E. A verbatim record of all proceedings under this section shall be made by stenographic means by a court reporter if a written request for a court reporter is made by any party to the proceedings at least twenty-four hours in advance of such proceedings. If stenographic means are not requested in the manner provided by this subsection, electronic means shall be directed by the presiding judge. The stenographic notes or electronic tape shall be retained as provided by statute.

F. A patient who has been ordered to undergo treatment may request a certified transcript of the hearing. To obtain a copy, the patient shall pay for a transcript or shall file an affidavit that the patient is without means

to pay for a transcript. If the affidavit is found true by the court, the expense of the transcript is a charge on the county in which the proceedings were held, or, if an intergovernmental agreement by the counties has required evaluation in a county other than that of the patient's residence, such expense may be charged to the county of the patient's residence or in which the patient was found before evaluation.

Sec. 109. Section 36-540, Arizona Revised Statutes, is amended to read:

36-540. Court options

A. If the court finds by clear and convincing evidence that the proposed patient, as a result of mental disorder, is a danger to self, is a danger to others, ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and in need of treatment, and is either unwilling or unable to accept voluntary treatment, the court shall order the patient to undergo one of the following:

1. Treatment in a program of outpatient treatment.

2. Treatment in a program consisting of combined inpatient and outpatient treatment.

3. Inpatient treatment in a mental health treatment agency, in a hospital operated by or under contract with the United States department of veterans affairs to provide treatment to eligible veterans pursuant to article 9 of this chapter, in the state hospital or in a private hospital, if the private hospital agrees, subject to the limitations of section 36-541.

B. The court shall consider all available and appropriate alternatives for the treatment and care of the patient. The court shall order the least restrictive treatment alternative available.

C. The court may order the proposed patient to undergo outpatient or combined inpatient and outpatient treatment pursuant to subsection A, paragraph 1 or 2 of this section if the court:

1. Determines that all of the following apply:

(a) The patient does not require continuous inpatient hospitalization.

(b) The patient will be more appropriately treated in an outpatient treatment program or in a combined inpatient and outpatient treatment program.

(c) The patient will follow a prescribed outpatient treatment plan.

(d) The patient will not likely become dangerous or suffer more serious physical harm or serious illness or further deterioration if the patient follows a prescribed outpatient treatment plan.

2. Is presented with and approves a written treatment plan that conforms with the requirements of section 36-540.01, subsection B. If the treatment plan presented to the court pursuant to this subsection provides for supervision of the patient under court order by a mental health agency that is other than the mental health agency that petitioned or requested the county attorney to petition the court for treatment pursuant to section 36-531, the treatment plan must be approved by the medical director of the

mental health agency that will supervise the treatment pursuant to subsection E of this section.

D. An order to receive treatment pursuant to subsection A, paragraph 1 or 2 of this section shall not exceed three hundred sixty-five days. The period of inpatient treatment under a combined treatment order pursuant to subsection A, paragraph 2 of this section shall not exceed the maximum period allowed for an order for inpatient treatment pursuant to subsection F of this section.

E. If the court enters an order for treatment pursuant to subsection A, paragraph 1 or 2 of this section, all of the following apply:

1. The court shall designate the medical director of the mental health treatment agency that will supervise and administer the patient's treatment program.

2. The medical director shall not use the services of any person, agency or organization to supervise a patient's outpatient treatment program unless the person, agency or organization has agreed to provide these services in the individual patient's case and unless the department has determined that the person, agency or organization is capable and competent to do so.

3. The person, agency or organization assigned to supervise an outpatient treatment program or the outpatient portion of a combined treatment program shall be notified at least three days before a referral. The medical director making the referral and the person, agency or organization assigned to supervise the treatment program shall share relevant information about the patient to provide continuity of treatment.

4. During any period of outpatient treatment under subsection A, paragraph 2 of this section, if the court, on motion by the medical director of the patient's outpatient mental health treatment facility, determines that the patient is not complying with the terms of the order or that the outpatient treatment plan is no longer appropriate and the patient needs inpatient treatment, the court, without a hearing and based on the court record, the patient's medical record, the affidavits and recommendations of the medical director, and the advice of staff and physicians or the psychiatric and mental health nurse practitioner familiar with the treatment of the patient, may enter an order amending its original order. The amended order may alter the outpatient treatment plan or order the patient to inpatient treatment pursuant to subsection A, paragraph 3 of this section. The amended order shall not increase the total period of commitment originally ordered by the court or, when added to the period of inpatient treatment provided by the original order and any other amended orders, exceed the maximum period allowed for an order for inpatient treatment pursuant to subsection F of this section. If the patient refuses to comply with an amended order for inpatient treatment, the court may authorize and direct a peace officer, on the request of the medical director, to take the patient into protective custody and transport the patient to the agency for inpatient

treatment. When reporting to or being returned to a treatment agency for inpatient treatment pursuant to an amended order, the patient shall be informed of the patient's right to judicial review and the patient's right to consult with counsel pursuant to section 36-546.

5. During any period of outpatient treatment under subsection A, paragraph 2 of this section, if the medical director of the outpatient treatment facility in charge of the patient's care determines, in concert with the medical director of an inpatient mental health treatment facility who has agreed to accept the patient, that the patient is in need of immediate acute inpatient psychiatric care because of behavior that is dangerous to self or to others, the medical director of the outpatient treatment facility may order a peace officer to apprehend and transport the patient to the inpatient treatment facility pending a court determination on an amended order under paragraph 4 of this subsection. The patient may be detained and treated at the inpatient treatment facility for a period of no more than forty-eight hours, exclusive of weekends and holidays, from the time that the patient is taken to the inpatient treatment facility. The medical director of the outpatient treatment facility shall file the motion for an amended court order requesting inpatient treatment no later than the next working day following the patient being taken to the inpatient treatment facility. Any period of detention within the inpatient treatment facility pending issuance of an amended order shall not increase the total period of commitment originally ordered by the court or, when added to the period of inpatient treatment provided by the original order and any other amended orders, exceed the maximum period allowed for an order for inpatient treatment pursuant to subsection F of this section. If a patient is ordered to undergo inpatient treatment pursuant to an amended order, the medical director of the outpatient treatment facility shall inform the patient of the patient's right to judicial review and to consult with an attorney pursuant to section 36-546.

F. The maximum periods of inpatient treatment that the court may order, subject to the limitations of section 36-541, are as follows:

1. Ninety days for a person found to be a danger to self.

2. One hundred eighty days for a person found to be a danger to others.

3. One hundred eighty days for a person found to ~~be persistently or acutely disabled~~ HAVE A PERSISTENT OR ACUTE DISABILITY.

4. Three hundred sixty-five days for a person found to ~~be gravely disabled~~ HAVE A GRAVE DISABILITY.

G. If, on finding that the patient meets the criteria for court-ordered treatment pursuant to subsection A of this section, the court also finds that there is reasonable cause to believe that the patient is an incapacitated person as defined in section 14-5101 or is a person in need of protection pursuant to section 14-5401 and that the patient is or may be in need of guardianship or conservatorship, or both, the court may order an

investigation concerning the need for a guardian or conservator, or both, and may appoint a suitable person or agency to conduct the investigation. The appointee may include a court appointed guardian ad litem, an investigator appointed pursuant to section 14-5308 or the public fiduciary if there is no person willing and qualified to act in that capacity. The court shall give notice of the appointment to the appointee within three days of the appointment. The appointee shall submit the report of the investigation to the court within twenty-one days. The report shall include recommendations as to who should be guardian or who should be conservator, or both, and a report of the findings and reasons for the recommendation. If the investigation and report so indicate, the court shall order the appropriate person to submit a petition to become the guardian or conservator, or both, of the patient.

H. In any proceeding for court-ordered treatment in which the petition alleges that the patient is in need of a guardian or conservator and states the grounds for that allegation, the court may appoint an emergency temporary guardian or conservator, or both, for a specific purpose or purposes identified in its order and for a specific period of time not to exceed thirty days if the court finds that all of the following are true:

1. The patient meets the criteria for court-ordered treatment pursuant to subsection A of this section.

2. There is reasonable cause to believe that the patient is an incapacitated person as defined in section 14-5101 or is in need of protection pursuant to section 14-5401, paragraph 2.

3. The patient does not have a guardian or conservator and the welfare of the patient requires immediate action to protect the patient or the ward's property.

4. The conditions prescribed pursuant to section 14-5310, subsection B or section 14-5401.01, subsection B have been met.

I. The court may appoint as a temporary guardian or conservator pursuant to subsection H of this section a suitable person or the public fiduciary if there is no person qualified and willing to act in that capacity. The court shall issue an order for an investigation as prescribed pursuant to subsection G of this section and, unless the patient is represented by independent counsel, the court shall appoint an attorney to represent the patient in further proceedings regarding the appointment of a guardian or conservator. The court shall schedule a further hearing within fourteen days on the appropriate court calendar of a court that has authority over guardianship or conservatorship matters pursuant to this title to consider the continued need for an emergency temporary guardian or conservator and the appropriateness of the temporary guardian or conservator appointed, and shall order the appointed guardian or conservator to give notice to persons entitled to notice pursuant to section 14-5309, subsection A or section 14-5405, subsection A. The court shall authorize certified letters of temporary emergency guardianship or conservatorship to be issued

on presentation of a copy of the court's order. If a temporary emergency conservator other than the public fiduciary is appointed pursuant to this subsection, the court shall order that the use of the money and property of the patient by the conservator is restricted and not to be sold, used, transferred or encumbered, except that the court may authorize the conservator to use money or property of the patient specifically identified as needed to pay an expense to provide for the care, treatment or welfare of the patient pending further hearing. This subsection and subsection H of this section do not:

1. Prevent the evaluation or treatment agency from seeking guardianship and conservatorship in any other manner allowed by law at any time during the period of court-ordered evaluation and treatment.

2. Relieve the evaluation or treatment agency from its obligations concerning the suspected abuse of a vulnerable adult pursuant to title 46, chapter 4.

J. If, on finding that a patient meets the criteria for court-ordered treatment pursuant to subsection A of this section, the court also learns that the patient has a guardian appointed under title 14, the court with notice may impose on the existing guardian additional duties pursuant to section 14-5312.01. If the court imposes additional duties on an existing guardian as prescribed in this subsection, the court may determine that the patient needs to continue treatment under a court order for treatment and may issue the order or determine that the patient's needs can be adequately met by the guardian with the additional duties pursuant to section 14-5312.01 and decline to issue the court order for treatment. If at any time after the issuance of a court order for treatment the court finds that the patient's needs can be adequately met by the guardian with the additional duties pursuant to section 14-5312.01 and that a court order for treatment is no longer necessary to assure compliance with necessary treatment, the court may terminate the court order for treatment. If there is a court order for treatment and a guardianship with additional mental health authority pursuant to section 14-5312.01 existing at the same time, the treatment and placement decisions made by the treatment agency assigned by the court to supervise and administer the patient's treatment program pursuant to the court order for treatment are controlling unless the court orders otherwise.

K. The court shall file a report as part of the court record on its findings of alternatives for treatment.

L. Treatment shall not include psychosurgery, lobotomy or any other brain surgery without specific informed consent of the patient or the patient's legal guardian and an order of the superior court in the county in which the treatment is proposed, approving with specificity the use of the treatment.

M. The medical director or any person, agency or organization used by the medical director to supervise the terms of an outpatient treatment plan shall not be held civilly liable for any acts committed by a patient while on

outpatient treatment if the medical director, person, agency or organization has in good faith followed the requirements of this section.

N. A peace officer who in good faith apprehends and transports a patient to an inpatient treatment facility on the order of the medical director of the outpatient treatment facility pursuant to subsection E, paragraph 5 of this section is not subject to civil liability.

O. If a person has been found, as a result of a mental disorder, to constitute a danger to self or others or ~~to be persistently or acutely disabled or gravely disabled~~ TO HAVE A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and the court enters an order for treatment pursuant to subsection A of this section, the court shall grant access to the person's name, date of birth, social security number and date of commitment to the department of public safety to comply with the requirements of title 13, chapter 31 and title 32, chapter 26.

Sec. 110. Section 36-540.01, Arizona Revised Statutes, is amended to read:

36-540.01. Conditional outpatient treatment

A. The medical director may issue an order for conditional outpatient treatment for a patient ordered to undergo treatment pursuant to section 36-540 if, after consultation with staff familiar with the patient's case history, the medical director determines with a reasonable degree of medical probability that all of the following apply:

1. The patient no longer requires continuous inpatient hospitalization.

2. The patient will be more appropriately treated in an outpatient treatment program.

3. The patient will follow a prescribed outpatient treatment plan.

4. The patient will not likely become dangerous, suffer more serious physical harm or serious illness or further deteriorate if the patient follows a prescribed outpatient treatment plan.

B. The order for conditional outpatient treatment issued by the medical director shall include a written outpatient treatment plan prepared by staff familiar with the patient's case history and approved by the medical director. The plan shall include all of the following:

1. A statement of the patient's requirements, if any, for supervision, medication and assistance in obtaining basic needs such as employment, food, clothing or shelter.

2. The address of the residence where the patient is to live and the name of the person in charge of the residence, if any.

3. The name and address of any person, agency or organization assigned to supervise an outpatient treatment plan or care for the patient, and the extent of authority of the person, agency or organization in carrying out the terms of the plan.

4. The conditions for continued outpatient treatment, which may require periodic reporting, continuation of medication and submission to

testing, and may restrict travel, consumption of spirituous liquor and drugs, associations with others and incurrence of debts and obligations or such other reasonable conditions as the medical director may specify.

C. Before release for conditional outpatient treatment, the patient shall be provided with copies and full explanations of the medical director's order and the treatment plan. If, after full explanation, the patient objects to the plan or any part of it, the objection and reasons for the objection shall be noted in the patient's record. The medical director's order and treatment plan shall be filed in the patient's medical file and shall also be filed with the court.

D. The period for which conditional outpatient treatment may be ordered may not exceed the remainder of the period of court ordered treatment.

E. Before the release of a patient for outpatient treatment, the medical director shall give notice pursuant to section 36-541.01, subsection B and a motion for a determination by the court as to whether the standard for conditional release of the patient has been met may be made by the persons and in the manner provided for in section 36-541.01, subsection H. Before the release of a person found to be a danger to self, to be ~~persistently or acutely disabled or to be gravely disabled~~ A PERSON WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY for outpatient treatment, the medical director shall give notice to the court that ordered the patient to undergo treatment. If criminal charges against a patient involving death or serious physical injury or a violation of title 13, chapter 14 are dismissed pursuant to section 13-4517, the medical director shall notify the prosecuting agency if a civil commitment order issued pursuant to this chapter expires or is terminated, or if the patient is discharged to outpatient treatment. The medical director shall provide this notice by mail at least five days before the anticipated date of the expiration, termination or discharge.

F. The medical director shall require periodic reports concerning the condition of patients on conditional outpatient treatment from any person, agency or organization assigned to supervise an outpatient treatment plan. The medical director shall require these reports at intervals not to exceed thirty days.

G. The medical director shall review the condition of a patient on conditional outpatient treatment at least once every thirty days and enter the findings in writing in the patient's file. In conducting the review, the medical director shall consider all reports and information received and may require the patient to report for further evaluation.

H. The medical director may amend any part of the outpatient treatment plan during the course of conditional outpatient treatment. If the plan is amended, the medical director shall issue a new order including the amended outpatient treatment plan. The new order and amended outpatient treatment plan shall be filed in the patient's medical file. Copies of the new order

and outpatient treatment plan shall be immediately provided to the patient and to any person, agency or organization assigned to supervise an outpatient treatment plan. Copies of the new order and outpatient treatment plan shall be immediately filed with the court.

I. The medical director may rescind an order for conditional outpatient treatment and order the patient to return to a mental health treatment agency at any time during the period of court ordered treatment if, in the medical director's judgment, the patient has failed to comply with a term of the outpatient treatment plan or if, for any reason, the medical director determines that the patient needs inpatient treatment or that conditional outpatient treatment is no longer appropriate.

J. If the medical director rescinds an order for conditional outpatient treatment and the patient is returned to a mental health treatment agency for inpatient treatment, the patient shall be informed of the patient's right to judicial review and right to consult with counsel pursuant to section 36-546.

K. If the medical director rescinds an order for conditional outpatient treatment and orders the patient to return to a mental health treatment agency, the medical director may request a peace officer or a designated officer or employee of the treatment agency to take the patient into custody for immediate delivery to the agency pursuant to section 36-544.

L. The medical director is not civilly liable for any act committed by a patient while on conditional outpatient treatment if the medical director has in good faith followed the requirements of this section.

M. This section does not prevent the medical director from authorizing a patient ordered to undergo treatment pursuant to section 36-540 as a danger to self, a danger to others, ~~persistently or acutely disabled or gravely disabled~~ A PATIENT WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY to leave the treatment agency for periods of no more than five days under the care, custody and control of a spouse, relative or other responsible person if the medical director determines that the patient will not become dangerous or suffer serious physical harm or illness during that time.

N. The medical director may authorize a patient who is civilly committed pursuant to section 36-540 to leave the state hospital grounds unaccompanied if the leave is part of an inpatient individualized treatment and discharge plan and the medical director determines that the patient will not become dangerous or suffer serious physical harm or illness during that time.

Sec. 111. Section 36-540.02, Arizona Revised Statutes, is amended to read:

36-540.02. Transfer of a person with a grave disability without a guardian from a mental health treatment agency to another health care facility

A. A person who does not have a guardian under the provisions of section 14-5312.01 and who has been found by the court to be ~~gravely disabled~~ A PERSON WITH A GRAVE DISABILITY and ordered to undergo treatment pursuant to this article may receive care in another health care institution licensed by the department during the course of the person's court-ordered treatment in accordance with department rules.

B. The deputy director, with the approval of the director, shall adopt rules pertaining to persons described in subsection A of this section to provide for their alternative care in another health care institution licensed by the department during the course of court-ordered treatment. The rules shall allow transfer of patients from a mental health treatment agency to another health care institution, transfer from one such institution to another and return to a mental health treatment agency.

Sec. 112. Section 36-541, Arizona Revised Statutes, is amended to read:

36-541. Mandatory local treatment

A. A patient who is ordered by a court to undergo treatment, if not hospitalized in the state hospital at the time of the order, shall undergo treatment for at least twenty-five days in a local mental health treatment agency geographically convenient for the patient before being hospitalized in the state hospital. This section shall not apply if the court finds, at a hearing on court-ordered treatment, that the patient's present condition and history demonstrate that the patient will not benefit from the required period of treatment in a local mental health treatment agency or that the state hospital provides a program which is specific to the needs of the patient and is unavailable in the local mental health treatment agency, or when there is no local mental health treatment agency readily available to the patient. Such a finding shall be based at least upon the annual written description by the state hospital of programs and services available and appropriate written reports from the medical director of the local mental health treatment agency. The patient may be immediately hospitalized at the state hospital whenever the court determines that this section does not apply.

B. A patient who is ordered by a court to undergo treatment based on a determination that he ~~is persistently or acutely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY shall be treated for at least twenty-five days solely in or by a local mental health treatment agency geographically convenient for the patient unless he is accepted by the superintendent of the state hospital for treatment at the state hospital.

Sec. 113. Section 36-541.01, Arizona Revised Statutes, is amended to read:

36-541.01. Release or discharge from treatment before expiration of period ordered by court; notification of intent to release or discharge; hearing

A. A patient ordered to undergo treatment pursuant to this article may be released from treatment before the expiration of the period ordered by the court if, in the opinion of the medical director of the mental health treatment agency, the patient no longer is, as a result of a mental disorder, a danger to others, a danger to self, ~~persistently or acutely disabled or gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY. A person ordered to undergo treatment as a danger to others may not be released or discharged from treatment before the expiration of the period for treatment ordered by the court unless the medical director first gives notice of intention to do so as provided by this section.

B. Before the release or discharge of a patient ordered to undergo treatment, the medical director of the mental health treatment agency shall notify the following of the medical director's intention to release or discharge the patient:

1. The presiding judge of the court that entered the order for treatment.

2. Any relative or victim of the patient who has filed a demand for notice with the treatment agency.

3. Any person found by the court to have a legitimate reason for receiving notice.

C. If criminal charges against a patient involving death or serious physical injury or a violation of title 13, chapter 14 are dismissed pursuant to section 13-4517, the medical director shall notify the prosecuting agency if a civil commitment order issued pursuant to this chapter expires or is terminated, or if the patient is discharged to outpatient treatment. The medical director shall provide this notice by mail at least five days before the anticipated date of the expiration, termination or discharge.

D. If the director of the mental health treatment agency is unable to determine, based on the information submitted pursuant to subsection E, that a person who has filed a demand for notice is a victim the director shall inform that person that that person's demand for notice is denied and that notice will not be given unless ordered by the court pursuant to subsection F.

E. A demand for notice by a relative or victim, and a petition for notice by other persons, shall be on a form prescribed by the department and shall include the following information:

1. The full name of the person to receive notice.

2. The address to which notice is to be mailed.

3. The telephone number of the person to receive notice.

4. The relationship to the patient, if any, or the reasons why the person believes the person has a legitimate reason to receive notice.

5. A statement that the person will advise the treatment agency in writing by certified mail, return receipt requested, of any change in the address to which notice is to be mailed.

6. The full name of the patient ordered to undergo treatment as a danger to others.

7. The mental health number assigned to the case by the superior court.

F. If the court receives a demand for notice by a relative or victim, the court shall order the medical director of the mental health treatment agency not to release or discharge the patient before the expiration of the period of court-ordered treatment without first giving notice to the relative or victim as provided in subsection G. After considering a petition for notice, if the court finds that the petitioner has a legitimate reason for receiving prior notice, the court may order the medical director of the mental health treatment agency not to release or discharge the patient from inpatient treatment before the expiration of the period of court-ordered treatment without first giving notice to the petitioner as provided in subsection G. Any order for notice shall be delivered to the mental health treatment agency and shall be filed with the patient's clinical record. If the patient is transferred to another agency or institution, any orders for notice shall be transferred with the patient.

G. A notice of intention to release or discharge shall include the following information:

1. The name of the patient to be released or discharged.

2. The type of release or discharge.

3. The date of anticipated release or discharge. Notices shall be placed in the mail, postage prepaid and addressed to the court and to each person for whom notice has been ordered, at least ten days before the date of intended release or discharge except notice shall be sent to the prosecuting agency at least five days before the date of intended release or discharge. For purposes of computing the notice requirement, the day of mailing shall not be counted.

H. Any person for whom prior notice is required pursuant to this section, or the court, may make a motion within the notification period that requires the court to determine whether the standard for release of the patient before the expiration of the period for court-ordered treatment has been met. A determination that the standard for release has been met may be made by the court based on a review of the record and any affidavits submitted without further hearing. For good cause, the court may order an evidentiary hearing. Whether or not a hearing is held, the court shall make a determination at the earliest possible time but no longer than three weeks after the anticipated date of release pursuant to subsection G, and the patient shall be retained for the additional time required for the court's

determination. In making its determination the court may order an independent examination of the patient. If a motion is not made, the patient may be released in accordance with the terms set forth in the notice without further court order.

I. If a motion has not been made pursuant to subsection H, the patient may be released or discharged and the medical director of the mental health treatment agency shall send to the court a certificate that the patient is no longer a danger to others, a danger to self, ~~persistently or acutely disabled or gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY as the result of a mental disorder and therefore is released before the expiration of the period ordered for treatment. The court shall enter an order terminating the patient's court-ordered treatment.

J. The medical director of the mental health treatment agency shall not be held civilly liable for any acts committed by a patient released before the expiration of the period of court-ordered treatment if the medical director has in good faith followed the requirements of this section.

Sec. 114. Section 36-543, Arizona Revised Statutes, is amended to read:

36-543. Release from treatment of a patient with a grave disability or a patient with a persistent or acute disability; annual review; court order for continued treatment

A. A patient found to ~~be gravely disabled or persistently or acutely disabled~~ HAVE A GRAVE DISABILITY OR A PERSISTENT OR ACUTE DISABILITY and ordered to undergo treatment may be released from inpatient treatment when, in the opinion of the medical director of the mental health treatment agency, the level of care offered by the agency is no longer required. The patient may agree to continue treatment voluntarily. If the patient is to be released, the medical director shall arrange for an appropriate alternative placement.

B. If a patient to be released from inpatient treatment is under guardianship, the medical director of the mental health treatment agency shall notify the guardian and any relevant regional behavioral health authority ten days before the intended release date that the ward no longer requires the level of care offered by the agency. The guardian and, if relevant, the regional behavioral health authority shall arrange alternative placement with the advice and recommendations of the medical director of the mental health treatment agency.

C. The medical director of the mental health treatment agency is not civilly liable for any acts committed by the released patient if the medical director has in good faith complied with the requirements of this article.

D. Within ninety days before the expiration of a court order for treatment, the medical director of the mental health treatment agency shall conduct an annual review of a patient who has been found to ~~be gravely disabled or persistently or acutely disabled~~ HAVE A GRAVE DISABILITY OR A

PERSISTENT OR ACUTE DISABILITY and is undergoing court-ordered treatment to determine whether the continuation of court-ordered treatment is appropriate and to assess the needs of the patient for guardianship or conservatorship, or both. The annual review shall consist of the mental health treatment and clinical records contained in the patient's treatment file. The mental health treatment agency shall keep a record of the annual review. If the medical director believes that a continuation of court-ordered treatment is appropriate, the medical director of the mental health treatment agency shall appoint one or more psychiatrists to carry out a psychiatric examination of the patient. In any proceeding conducted pursuant to this section, a patient has the right to have an analysis of the patient's mental condition by an independent evaluation pursuant to section 36-538.

E. Each examiner participating in the psychiatric examination of the patient shall submit a report to the medical director of the mental health treatment agency that includes the following:

1. The examiner's opinions as to whether the patient continues to ~~be gravely disabled or persistently or acutely disabled~~ HAVE A GRAVE DISABILITY OR A PERSISTENT OR ACUTE DISABILITY as the result of a mental disorder and in need of continued court-ordered treatment. In evaluating the patient's need for continued court-ordered treatment, the examiner must consider, along with all other evidence, the patient's history before and during the current period of court-ordered treatment, the patient's compliance with recommended treatment and any other evidence relevant to the patient's ability and willingness to follow recommended treatment with or without a court order.

2. A statement as to whether suitable alternatives to court-ordered treatment are available.

3. A statement as to whether voluntary treatment would be appropriate.

4. A review of the patient's status as to guardianship or conservatorship, or both, the adequacy of existing protections of the patient and the continued need for guardianship or conservatorship, or both. If the examiner concludes that the patient's needs in these areas are not being adequately met, the examiner's report shall recommend that the court order an investigation into the patient's needs.

5. If the patient has an existing guardian who does not have the mental health powers authorized pursuant to section 14-5312.01, a recommendation as to whether the additional mental health powers authorized by section 14-5312.01 should be imposed on the existing guardian and whether the patient's needs can be adequately addressed by a guardian with mental health powers without the need for a court order for treatment or whether the court order for treatment should continue regardless of the additional mental health powers imposed on the guardian.

6. The results of any physical examination conducted during the period of court-ordered treatment if relevant to the psychiatric condition of the patient.

F. After conducting the annual review as prescribed in this section, if the medical director believes that continued court-ordered treatment is necessary or appropriate, not later than thirty days before the expiration of the court order for treatment, the medical director shall file with the court an application for continued court-ordered treatment alleging the basis for the application and shall file simultaneously with the application any psychiatric examination conducted as part of the annual review. If the patient is under guardianship, the medical director shall mail a copy of the application to the patient's guardian.

G. If an application for continued court-ordered treatment is filed, all of the following apply:

1. If the patient does not have an attorney, the court shall appoint an attorney to represent the patient.

2. Within ten days after appointment, an attorney appointed pursuant to this subsection, to the extent possible, shall fulfill the duties imposed pursuant to section 36-537, review the medical director's report and the patient's medical records, interview any physician who prepared a report on the annual review and file a response requesting a hearing or submitting the matter to the court for a ruling based on the record without a hearing.

3. If a hearing is not requested, the court shall rule on the application or set the matter for hearing. If a hearing is requested, the hearing shall be held within three weeks after the request for hearing is filed. The hearing may be continued for good cause on motion of a party or on the court's own motion, and the expiration of the current court order for treatment may be extended until a ruling by the court on an application filed pursuant to this subsection.

4. The patient's attorney must be present at all hearings and may subpoena and cross-examine witnesses and present evidence. The patient has the right to attend all hearings, but may choose not to attend a hearing. The patient's attorney may waive the patient's presence after speaking with the patient and confirming that the patient understands the right to be present and does not desire to attend. If the patient is unable to be present at the hearing for medical or psychiatric reasons and the hearing cannot be conducted where the patient is being treated or confined, or the patient cannot appear by another reasonably feasible means, the court shall require clear and convincing evidence that the patient is unable to be present at the hearing and on such a finding may proceed with the hearing in the patient's absence.

5. The evidence presented by the applicant includes the testimony of one or more witnesses acquainted with the patient during the period of court-ordered treatment, which may be satisfied by a statement agreed on by the parties, and the testimony of any physician who performed an annual review of the patient, which may be satisfied by stipulating to the admission of the examining physicians' written report prepared pursuant subsection E of this section. The court may waive the need for the applicant to present the

testimony of witnesses acquainted with the patient as required by this subsection, if it finds that the need for a continued court order for treatment has been established by clear and convincing evidence from the other testimony and evidence presented at the hearing.

6. At a hearing held pursuant to this subsection, the court, with notice, may impose on an existing guardian additional powers pursuant to section 14-5312.01. If the court finds that the patient's needs can be adequately met by an existing guardian with the additional powers pursuant to section 14-5312.01 and that a court order for treatment is not necessary to ensure compliance with necessary treatment, the court may terminate the court order for treatment or decline to issue an order continuing court-ordered treatment. The court may also order an investigation into the need for guardianship or conservatorship, or both, and may appoint a suitable person or agency to conduct the investigation. The appointee may include a court-appointed guardian ad litem, a court-appointed investigator pursuant to section 14-5308 or the public fiduciary if there is no person willing and qualified to act in that capacity. The court shall give notice of the appointment to the appointee within three days after the appointment. The appointee shall submit the report of the investigation to the court within twenty-one days. The report shall include recommendations as to who should be guardian or conservator, or both, and the findings and reasons for the recommendation. If the investigation and report so indicate, the court may authorize an appropriate person to file a petition for appointment of a guardian or conservator for the patient.

H. If a hearing is held pursuant to subsection G of this section, the party seeking the renewal of the court order must prove all of the following by clear and convincing evidence:

1. The patient continues to have a mental disorder and, as a result of that disorder, ~~is either persistently or acutely disabled or is gravely disabled~~ HAS EITHER A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY.

2. The patient is in need of continued court-ordered treatment.

3. The patient is either unwilling or unable to accept treatment voluntarily.

I. After a hearing held pursuant to subsection G of this section, the court may order the patient to be released from court-ordered treatment or to undergo continued court-ordered treatment for a period not to exceed the time periods prescribed in section 36-540, subsection D.

J. The deputy director shall create and operate a program to ensure that the examination and review of ~~gravely disabled persons or persistently or acutely disabled~~ persons WITH GRAVE DISABILITIES OR PERSISTENT OR ACUTE DISABILITIES under court order are carried out in an effective and timely manner. The deputy director, with the approval of the director, shall adopt rules needed to operate this program.

Sec. 115. Section 36-548, Arizona Revised Statutes, is amended to read:

36-548. Court-ordered treatment by the United States department of veterans affairs or other agency of the United States

A. Whenever, in any proceeding under the laws of this state for the court-ordered treatment of a person alleged to be, as a result of a mental disorder, a danger to self or to others, ~~persistently or acutely disabled or gravely disabled~~ WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY, it is determined after such adjudication of the status of such person as may be required by law that hospitalization in a mental health treatment agency is necessary for treatment, and it appears that the person is eligible for care or treatment by the United States department of veterans affairs or other agency of the United States, the court, on receipt of a certificate from the United States department of veterans affairs or other agency showing that facilities are available and that the person is eligible for care or treatment, may order the person to undergo treatment by the United States department of veterans affairs or other agency of the United States. A person hospitalized in a United States department of veterans affairs facility or institution operated by another agency of the United States in accordance with the court's order for treatment shall be subject to the rules and regulations of the United States department of veterans affairs or other agency whether the facility is located within or without the state. The chief officer of the United States department of veterans affairs facility or other institution by another agency of the United States in which the person is hospitalized shall with respect to the person be vested with the same powers as the medical director of a mental health treatment agency with respect to the continuation of hospitalization or release. Jurisdiction is retained by the court that ordered the treatment of the patient or other superior court of the state at any time to inquire into the mental condition of the person and to determine the necessity for continuance of the person's hospitalization.

B. The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia committing a person to the United States department of veterans affairs or other agency of the United States for care or treatment shall have the same force and effect as to the committed person while in this state as in the jurisdiction where the court that entered the judgment or made the order is located, and the courts of the committing state or of the District of Columbia shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring into the mental condition of the person, and of determining the necessity for continuance of the person's hospitalization as provided by subsection A of this section with respect to persons ordered to undergo treatment by the courts of this state. Consent is given to the application of the law of the committing state or District of Columbia with respect to

the authority of the chief officer of any facility of the United States department of veterans affairs or any institution operated in this state by any other agency of the United States to retain custody of or transfer, parole, or discharge the committed person.

C. On receipt of a certificate of the United States department of veterans affairs or other agency of the United States that facilities are available for the care or treatment of any person ordered to undergo treatment in a mental health treatment agency and that the person is eligible for care or treatment, the medical director of the mental health treatment agency may cause the transfer of the person to a United States department of veterans affairs facility or institution operated by another agency of the United States for care or treatment. On effecting any such transfer, the superior court that ordered treatment for the patient shall be notified by the transferring agency. A person shall not be transferred to a United States department of veterans affairs facility or institution operated by another agency of the United States if the person is confined pursuant to an order of a superior court under rules of criminal procedure, unless before that transfer the superior court enters an order for the transfer.

D. A person transferred as provided in this section is deemed to have been ordered to undergo treatment by the United States department of veterans affairs or other agency of the United States pursuant to the original court order for treatment. A person ordered to undergo treatment by the United States department of veterans affairs or transferred to the United States department of veterans affairs as provided in this section shall not be removed from the state for evaluation or treatment without specific informed consent of the patient or the person's legal guardian.

Sec. 116. Section 36-551, Arizona Revised Statutes, is amended to read:

36-551. Definitions

In this chapter, unless the context otherwise requires:

1. "Adaptive behavior" means the effectiveness or degree to which the individual meets the standards of personal independence and social responsibility expected of the person's age and cultural group.

2. "Adult developmental home" means a residential setting in a family home in which the care, physical custody and supervision of the adult client are the responsibility, under a twenty-four hour care model, of the licensee who, in that capacity, is not an employee of the division or of a service provider and the home provides the following services for a group of siblings or up to three adults with developmental disabilities:

(a) Room and board.

(b) Habilitation.

(c) Appropriate personal care.

(d) Appropriate supervision.

3. "Adult household member" means a person who is at least eighteen years of age and who resides in an adult developmental home, child

developmental foster home, secure setting or home and community based service setting for at least thirty days or who resides in the household throughout the year for more than a cumulative total of thirty days.

4. "Advisory council" means the developmental disabilities advisory council.

5. "Arizona training program facility" means a state operated institution for ~~developmentally disabled~~ clients WITH DEVELOPMENTAL DISABILITIES of the department.

6. "Attributable to cognitive disability, epilepsy, cerebral palsy or autism" means that there is a causal relationship between the presence of an impairing condition and the developmental disability.

7. "Autism" means a condition characterized by severe disorders in communication and behavior resulting in limited ability to communicate, understand, learn and participate in social relationships.

8. "Case management" means coordinating the assistance needed by persons with developmental disabilities and their families in order to ensure that persons with developmental disabilities attain their maximum potential for independence, productivity and integration into the community.

9. "Case manager" means a person who coordinates the implementation of the individual program plan of goals, objectives and appropriate services for persons with developmental disabilities.

10. "Cerebral palsy" means a permanently disabling condition resulting from damage to the developing brain that may occur before, after or during birth and that results in loss or impairment of control over voluntary muscles.

11. "Child developmental foster home" means a residential setting in a family home in which the care, physical custody and supervision of the child are the responsibility, under a twenty-four hour care model, of the licensee who serves as the foster parent of the child in the home setting and who, in that capacity, is not an employee of the division or of a service provider and the home provides the following services for a group of siblings or up to three children with developmental disabilities:

(a) Room and board.

(b) Habilitation.

(c) Appropriate personal care.

(d) Appropriate supervision.

12. "Client" means a person receiving developmental disabilities services from the department.

13. "Cognitive disability" means a condition that involves subaverage general intellectual functioning, that exists concurrently with deficits in adaptive behavior manifested before age eighteen and that is sometimes referred to as intellectual disability.

14. "Community residential setting" means a child developmental foster home, an adult developmental home or a secure setting operated or contracted by the department in which persons with developmental disabilities live and

are provided with appropriate supervision by the service provider responsible for the operation of the residential setting.

15. "Consent" means voluntary informed consent. Consent is voluntary if not given as the result of coercion or undue influence. Consent is informed if the person giving the consent has been informed of and comprehends the nature, purpose, consequences, risks and benefits of the alternatives to the procedure, and has been informed and comprehends that withholding or withdrawal of consent will not prejudice the future provision of care and services to the client. In cases of unusual or hazardous treatment procedures performed pursuant to section 36-561, subsection A, experimental research, organ transplantation and nontherapeutic surgery, consent is informed if, in addition to the foregoing, the person giving the consent has been informed of and comprehends the method to be used in the proposed procedure.

16. "Daily habilitation" means habilitation as defined in this section except that the method of payment is for one unit per residential day.

17. "Department" means the department of economic security.

18. "Developmental disability" means either a strongly demonstrated potential that a child under six years of age ~~is developmentally disabled~~ HAS A DEVELOPMENTAL DISABILITY or will become ~~developmentally disabled~~ A CHILD WITH A DEVELOPMENTAL DISABILITY, as determined by a test performed pursuant to section 36-694 or by other appropriate tests, or a severe, chronic disability that:

(a) Is attributable to cognitive disability, cerebral palsy, epilepsy or autism.

(b) Is manifested before age eighteen.

(c) Is likely to continue indefinitely.

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care.

(ii) Receptive and expressive language.

(iii) Learning.

(iv) Mobility.

(v) Self-direction.

(vi) Capacity for independent living.

(vii) Economic self-sufficiency.

(e) Reflects the need for a combination and sequence of individually planned or coordinated special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration.

19. "Director" means the director of the department of economic security.

20. "Division" means the division of developmental disabilities in the department of economic security.

21. "Epilepsy" means a neurological condition characterized by abnormal electrical-chemical discharge in the brain. This discharge is manifested in various forms of physical activities called seizures.

22. "Group home" means a residential setting for not more than six persons with developmental disabilities that is operated by a service provider under contract with the division and that provides, in a shared living environment, room and board and daily habilitation. Group home does not include an adult developmental home, a child developmental foster home, a secure setting or an intermediate care facility for ~~the~~ persons with an intellectual disability.

23. "Guardian" means the person who, under court order, is appointed to fulfill the powers and duties prescribed in section 14-5312. Guardian does not include a guardian pursuant to section 14-5312.01.

24. "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills that enable the person to cope more effectively with personal and environmental demands and to raise the level of the person's physical, mental and social efficiency.

25. "Indigent" means a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY whose estate or parent is unable to bear the full cost of maintaining or providing services for that person in a developmental disabilities program.

26. "Individual program plan" means a written statement of services to be provided to a person with developmental disabilities, including habilitation goals and objectives, which is developed following initial placement evaluation and revised after periodic evaluations.

27. "Intermediate care facility for persons with an intellectual disability" means a facility that primarily provides health and rehabilitative services to persons with developmental disabilities that are above the service level of room and board or supervisory care services or personal care services as defined in section 36-401 but that are less intensive than skilled nursing services.

28. "Large group setting" means a setting that in addition to residential care provides support services such as therapy, recreation and transportation to seven or more ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES who require intensive supervision.

29. "Least restrictive alternative" means an available program or facility that fosters independent living, that is the least confining for the client's condition and where service and treatment are provided in the least intrusive manner reasonably and humanely appropriate to the individual's needs.

30. "Likely to continue indefinitely" means that the developmental disability has a reasonable likelihood of continuing for a protracted period of time or for life.

31. "Manifested before age eighteen" means that the disability must be apparent and have a substantially limiting effect on a person's functioning before age eighteen.

32. "Physician" means a person who is licensed to practice pursuant to title 32, chapter 13 or 17.

33. "Placement evaluation" means an interview and evaluation of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY and a review of the person's prior medical and program histories to determine the appropriate developmental disability programs and services for the person and recommendations for specific program placements for the person.

34. "Psychologist" means a person who is licensed pursuant to title 32, chapter 19.1.

35. "Respite services" means services that provide a short-term or long-term interval of rest or relief to the care provider of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY.

36. "Responsible person" means the parent or guardian of a ~~developmentally disabled~~ minor WITH A DEVELOPMENTAL DISABILITY, the guardian of ~~a developmentally disabled~~ AN adult WITH A DEVELOPMENTAL DISABILITY or ~~a developmentally disabled~~ AN adult WITH A DEVELOPMENTAL DISABILITY who is a client or an applicant for whom no guardian has been appointed.

37. "Secure facility" means a facility that is licensed and monitored by the division, that is designed to provide both residential and program services within the facility and that is operated to prevent clients from leaving because of the danger they may present to themselves and the community.

38. "Service provider" means a person or agency that provides services to clients pursuant to a contract, service agreement or qualified vendor agreement with the division.

39. "State operated service center" means a state owned or leased facility that is operated by the department and that provides temporary residential care and space for child and adult services that include respite care, crisis intervention and diagnostic evaluation.

40. "Subaverage general intellectual functioning" means measured intelligence on standardized psychometric instruments of two or more standard deviations below the mean for the tests used.

41. "Substantial functional limitation" means a limitation so severe that extraordinary assistance from other people, programs, services or mechanical devices is required to assist the person in performing appropriate major life activities.

42. "Supervision" means the process by which the activities of an individual with developmental disabilities are directed, influenced or monitored.

Sec. 117. Section 36-551.01, Arizona Revised Statutes, is amended to read:

36-551.01. Persons with developmental disabilities; rights guaranteed

A. A ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY in this state shall not be denied as the result of the developmental disability the rights, benefits, and privileges guaranteed by the constitution and laws of the United States and the constitution and laws of this state. The rights of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES which are specifically enumerated in this chapter are in addition to all other rights enjoyed by such persons. The listing of rights is not exclusive or intended to limit in any way rights which are guaranteed to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES under state and federal laws.

B. Every ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY has the right to protection from exploitation and abuse on the basis of a developmental disability.

C. Every ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY who is provided residential care by the state has the right to live in the least restrictive alternative, as determined after an initial placement evaluation has been conducted for that person.

D. Every school-age ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY has the right to receive publicly-supported educational services in accordance with the applicable specific education laws of the state.

E. An employer, employment agency or labor organization shall not deny a person equal employment opportunity because of developmental disability except under both of the following circumstances:

1. The denial is based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise.

2. The person's developmental disability significantly impairs the person's ability to meet the qualifications for the position in question.

F. An owner, lessee, sublessee, assignee, or managing agent of or other person having the right to sell, rent or lease any real property or agency or employee of that person shall not refuse to sell, rent or lease to any person or group of persons solely on the basis of developmental disability.

G. Any ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY requesting to be provided with developmental disability programs or services has the right, prior to receiving programs or services, to receive a placement evaluation to determine the need for developmental disability services and to determine the appropriate services for such person.

1 H. ~~Developmentally disabled~~ Persons WITH DEVELOPMENTAL DISABILITIES
2 have the right to presumption of legal competency in guardianship
3 proceedings.
4 I. ~~Developmentally disabled~~ Persons WITH DEVELOPMENTAL DISABILITIES
5 have the right to fair compensation for labor.
6 J. Each client who has been accepted to receive developmental
7 disability services has the right to receive a written individual program
8 plan. Each plan shall be developed by appropriate department personnel with
9 the participation of the client and the client's parent or guardian, if any,
10 and shall be based on the relevant results of the placement evaluation.
11 K. Every client has the right to periodic review of the individual
12 program plan to measure progress, to modify objectives and programs if
13 necessary and to provide guidance and remediation techniques.
14 L. Each client and each parent or guardian of a minor client or the
15 guardian of an adult client has the right to participate in the client's
16 initial placement evaluation and periodic evaluations and to be informed in
17 writing of the client's progress at reasonable intervals. Whenever possible,
18 the responsible person shall be given the opportunity to decide among several
19 appropriate alternative services available to the client from the service
20 provider.
21 M. The responsible person has the right to withdraw the client from
22 developmental disability programs and services unless the client was assigned
23 to the department by the juvenile court. If a client is assigned pursuant to
24 section 36-559, subsection D, the client shall seek and receive the court's
25 permission before the client may withdraw.
26 N. Clients have the right to be free from mistreatment, neglect and
27 abuse by service providers.
28 O. Each client has the right to be free from unnecessary and excessive
29 medication. Medication shall not be used as punishment, for the convenience
30 of the staff, as a substitute for an individual program plan, or in
31 quantities that interfere with the client's individual program
32 plan. Prescription-only medication for each client shall be authorized only
33 by the prescription of a physician and the administration of such medication
34 shall be directed by a physician.
35 P. On admission for developmental disability services, each client and
36 the client's parent or guardian, if any, shall be given written notice, if
37 possible, and oral notice in their primary language, in a manner which can be
38 easily understood, of the rights included in this chapter, including the
39 right to administrative reviews. If written or oral language is not the
40 primary mode of communication of the client or the client's parent or
41 guardian, notice shall be given to that person in the primary mode of
42 communication, if possible. However, if a client is manifestly unable to
43 comprehend these rights, notice to the parent or guardian of a minor client
44 or to the guardian of an adult client shall be sufficient.

Q. ~~Developmentally disabled~~ Persons WITH DEVELOPMENTAL DISABILITIES who are residents in residential programs operated or supported by the department have the right to a humane and clean physical environment, the right to communication and visits and the right to personal property.

R. A ~~developmentally disabled~~ child WITH A DEVELOPMENTAL DISABILITY has the right to appropriate services that are consistent with the child's written individual program plan. These services do not require the relinquishment or restriction of parental rights or custody except as prescribed in section 8-533. These services are subject to available appropriations if they are not mandated by federal law.

S. Any ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY or the parent or guardian of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY who believes that his rights, as established by this chapter or by the Constitution of the United States or the Constitution of Arizona, have been violated has a right to petition the superior court for redress unless other remedies exist under federal or state laws.

Sec. 118. Section 36-552, Arizona Revised Statutes, is amended to read:

36-552. Developmental disabilities function; expenditure limitation

A. The department shall function as the developmental disabilities authority for the state of Arizona.

B. No provisions of this chapter shall be construed to give the department control of lawful activities of other governmental agencies or of activities of the universities or colleges of this state in the field of developmental disabilities, unless by specific contract or agreement therefor.

C. Subject to annual legislative appropriation and other available funding, the department shall provide a wide variety of developmental disability programs and services throughout the state in response to the wide range of developmental disability conditions, the capabilities of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES and the presence of other ~~handicapping~~ DISABLING conditions for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES.

D. The department may contract with other state agencies and with private agencies to provide the developmental disabilities program or service.

E. The total amount of state monies that may be spent in any fiscal year by the department for developmental disabilities services pursuant to this chapter shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This chapter shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the

expenditure authorized by legislative appropriation for that specific purpose.

Sec. 119. Section 36-553, Arizona Revised Statutes, is amended to read:

36-553. Developmental disabilities advisory council; membership; duties

A. The developmental disabilities advisory council is established consisting of the following members:

1. One parent or guardian of a child who is under the age of eighteen years and who ~~is developmentally disabled~~ HAS A DEVELOPMENTAL DISABILITY.

2. One parent or guardian of a child who is eighteen years of age or older and who ~~is developmentally disabled~~ HAS A DEVELOPMENTAL DISABILITY.

3. One parent of a child who is served through the Arizona early intervention program.

4. One member of the private sector who represents an agency that is certified to provide in-home services to persons with developmental disabilities.

5. Two members of the private sector who are contracted with the division to deliver services to persons with developmental disabilities, one who represents a provider of residential services and one who represents a provider of adult day services including employment services.

6. Two members with a developmental disability who receive services from the division.

7. Two members each representing a different developmental disability advocacy organization.

8. One member from the designated protection and advocacy organization.

9. A member representing a nonprofit organization providing direct advocacy to families with ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES.

10. The director of the Arizona health care cost containment system administration or the director's designee. This person is a nonvoting member.

11. The assistant director of the division of developmental disabilities. This person is a nonvoting member.

12. One member from the developmental disabilities planning council.

13. One member representing foster parents of children with developmental disabilities.

14. One member from the human rights committee on ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES established by section 41-3801.

B. The governor shall appoint all voting members. Voting members and their families shall not be employees of the department of economic security. In making these appointments the governor shall select at least five members who are clients or guardians, parents or other family members of persons with

developmental disabilities. One of these five voting members shall represent a person who is eligible for long-term care services pursuant to chapter 29, article 2 of this title. The governor shall also consider geographic representation in making these appointments.

C. Council members appointed pursuant to subsection A, paragraphs 1 through 9 and 13 and 14 of this section shall serve staggered three year terms. No members may serve more than two full terms. A vacancy occurring on the council shall be filled by the governor appointing another qualified person to serve the remainder of the term.

D. The council chairman shall be chosen annually by a majority vote of the council. A majority of voting council members constitutes a quorum.

E. The council shall meet in each district at least once a year.

F. The division must allow the council to review new policies and major policy changes before the division submits the policies or changes for public comment.

G. The council shall review auditor general reports regarding the division and services provided by the department of health services.

H. Council members are not eligible to receive compensation, but council members appointed pursuant to subsection A, paragraphs 1 through 9 and 13 and 14 of this section are eligible to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2.

I. The council shall review and make recommendations to the division regarding:

1. Coordinating and integrating services provided by state agencies and providers that have contracted with state agencies to provide developmental disability programs.

2. The health, safety, welfare and legal rights of persons with developmental disabilities.

3. The division's plan for service delivery and improvement.

4. Establishing and reviewing division policies and programs.

5. The cost-effectiveness of division services.

6. Assessing the division's annual needs.

7. Selecting the assistant director of the division.

8. Monitoring the division's annual budget.

9. The sale or lease of the real property and improvements on the real property formerly used by the department of economic security for the Arizona training program in Phoenix.

J. The council shall oversee and approve expenditures of monies from the ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES client services trust fund established in section 36-572 following expenditure guidelines established by the council.

K. The council shall provide the public with an opportunity to address the council at regularly publicized meetings.

L. The council shall submit an annual report of activities to the director, the governor, the president of the senate and the speaker of the house of representatives by December 31 of each year.

M. The department shall make meeting space available to the developmental disabilities advisory council at locations and times convenient to the council and shall provide secretarial and other staff support.

Sec. 120. Section 36-554, Arizona Revised Statutes, is amended to read:

36-554. Powers and duties of director

A. The director shall:

1. Be responsible for developing and annually revising a statewide plan and initiating statewide programs and ~~service~~ SERVICES for ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES in locations where the programs and services are necessary, which shall include:

(a) Child services, which may include infant stimulation, developmental training for pre-school children and special education at Arizona training program facilities for school-age, ~~developmentally disabled~~ children WITH DEVELOPMENTAL DISABILITIES residing at Arizona training program facilities who do not attend public school.

(b) Adult services, in coordination with the vocational rehabilitation services of the department, which may include but not be limited to job training and training and adjustment services, job development and placement, sheltered employment and other nonvocational day activity services for adults.

(c) Residential services, including various community residential settings, Arizona training program facilities and state operated service centers which provide varying levels of supervision in accordance with the developmental disability levels of the persons placed at such settings, facilities or centers. The department shall contract with private profit or nonprofit agencies to provide appropriate residential settings for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES which provide for regular assistance and supervision of such persons and which provide varied developmental disability programs and services on or near the community residential setting.

(d) Resource services, which may include comprehensive evaluation services, information and referral services and outpatient rehabilitation and social development services. The department in providing developmental disability programs and services shall whenever practicable utilize qualified private contractors. In selecting private contractors, the department shall utilize those contractors which can clearly demonstrate an ability to perform such contract in accordance with standards and specifications adopted by the department.

2. Establish standards, provide technical assistance, and supervise all developmental disability programs and services operated by or supported by the department.

3. Coordinate the planning and implementation of developmental disability programs and activities, institutional and community, of all state agencies, provided this shall not be construed as depriving other state agencies of jurisdiction over, or the right to plan for, control, and operate programs that pertain to developmental disability programs but that fall within the primary jurisdiction of such other state agencies.

4. Periodically assess the effectiveness of the quality assurance system as required by 42 Code of Federal Regulations section 434.34 as it pertains to developmental disabilities programs.

5. License community residential settings pursuant to this chapter.

6. Develop rules establishing a procedure for handling complaints about community residential settings.

7. Inform in writing every parent or guardian of a ~~developmentally disabled~~ client WITH A DEVELOPMENTAL DISABILITY residing at or transferring to a community residential setting of the complaint handling procedure.

8. As new community residential settings are developed over a period of time, reduce the clientele at Arizona training program facilities to those ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES who are required to be in Arizona training program facilities because the community lacks an appropriate community residential setting that meets their individual needs or whose parents or legal guardians want them in an Arizona training program facility.

9. In conjunction with the division, individuals with developmental disabilities and their families, advocates, community members and service providers, develop, enhance and support environments that enable individuals with developmental disabilities to achieve and maintain physical well-being, personal and professional satisfaction, participation as family and community members and safety from abuse and exploitation.

10. Do all other things reasonably necessary and proper to carry out the duties and the provisions of this chapter.

11. Adopt rules regarding procurement procedures similar to those found in title 41, chapter 23.

B. Programs and services offered pursuant to subsection A, paragraph 1 of this section shall be provided in cooperation with public and private resources that can best meet the needs of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES and that are located in the community and in proximity to the persons being served.

C. The director may:

1. Establish nonresidential outpatient programs for placement, evaluation, care, treatment and training of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES residing in the community who are not eligible for public school programs, and who do not have access to other state supported programs providing equivalent services.

2. Develop cooperative programs with other state departments and agencies, political subdivisions of the state, and private agencies concerned

with and providing services for ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

3. Contract for the purchase of services with other state and local governmental or private agencies. Such agencies are authorized to accept and expend funds received pursuant to such contracts.

4. Stimulate research by public and private agencies, institutions of higher learning, and hospitals in the interest of the prevention of developmental disabilities and improved methods of care and training for ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

5. Apply for, accept, receive, hold in trust or use in accordance with the terms of the grant or agreement any public or private funds or properties, real or personal, granted or transferred to it for any purpose authorized by this chapter.

6. Make and amend rules from time to time as deemed necessary for the proper administration of programs and services for the treatment of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES, for the admission of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES to the programs and services and to carry out the purposes of this chapter.

Sec. 121. Section 36-555, Arizona Revised Statutes, is amended to read:

36-555. <u>Coordination of programs by department with special education programs</u>

A. The department may conduct jointly, directly or indirectly, with a school district the placement evaluation of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY who has applied for or is receiving developmental disability programs or services from the department and who is either enrolled or in the process of being evaluated for enrollment in a special education program or may contract with such school district to provide the evaluation for the school district or to have the school district provide the placement evaluation for the department. With consent of the parent the evaluation information may be shared by and among department of economic security and department of education personnel, or personnel from the local education agency, for purposes of ensuring the provision of special education and related services as required by the individuals with disabilities education act (20 United States Code sections 1400 through 1415).

B. The department shall coordinate its development of an individual program plan for a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY who has applied for or who is receiving developmental disability programs or services provided directly or indirectly by the department with the school district in which the ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY is enrolled with the school district's development of an individual education program plan for such person.

C. When a ~~developmentally disabled~~ child WITH A DEVELOPMENTAL DISABILITY has received developmental disabilities programs or services

provided directly or indirectly by the department, upon request of the responsible person or the school district in which the child is enrolled, the department shall provide follow-up placement evaluation and case management services for the ~~developmentally disabled~~ child WITH A DEVELOPMENTAL DISABILITY for a period of six months after the child has become enrolled in the school district.

D. During the one-year period prior to the graduation or other termination of school attendance by a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY, the department shall, upon the request of the responsible person, provide placement evaluation and case management services for such person. Such evaluation shall consider the person's needs for housing, employment training, employment and support services.

E. The department of economic security shall coordinate the residential placement of all school-age ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES in residential housing facilities operated or supported by the department of economic security with the school districts in which such residential facilities will be located and with the department of education in a manner which will make best use of existing programs and facilities and operational capabilities and which will not cause serious overcrowding of school facilities or programs.

Sec. 122. Section 36-556, Arizona Revised Statutes, is amended to read:

36-556. Coordination with division of behavioral health; duties of department

The department shall coordinate with the division of behavioral health in the department of health services in:

1. The development of specialized programs for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES at the state hospital.

2. Planning and providing residential care services and related child, adult and resource services for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES upon their discharge from the state hospital, in accordance with section 36-560. The division of behavioral health shall provide notice fifteen days prior to discharge.

Sec. 123. Section 36-557, Arizona Revised Statutes, is amended to read:

36-557. Community developmental disability services; service providers

A. The department may use state and federal monies appropriated or otherwise available to it for this purpose to assist in the establishment and maintenance of local developmental disability services by public or private nonprofit or profit agencies. The monies may be expended as professional fees for service, in contracts for advancement or reimbursement or in another appropriate manner and may be used for any purpose necessary to the provision of local developmental disability services. The monies may not be used for departmental salaries, care of ~~developmentally disabled~~ persons WITH

DEVELOPMENTAL DISABILITIES by the department or any other purpose within the department, but may be used for consultation to the department in the interest of local programs.

B. A local public or private nonprofit or profit agency providing or intending to provide community developmental disability services and desiring to contract with the department for the furnishing of these services shall submit a program plan and budget to the department on the forms and in the manner required by the department. If the program meets departmental standards and is consistent with the state plan of the department and the individualized service program plan of the client, the department, notwithstanding the provisions of title 41, chapter 23, relating to procurement and including services pursuant to section 36-2943, may contract with that agency for required services on terms the department requires. The contracts shall provide that the provider of services is subject to a continuing program evaluation by the department through progress reports, expenditure reports, program audits or other appropriate evaluation techniques to assure that the provider of service is in continued compliance with the terms of the contract and the department's community developmental disability service standards and requirements.

C. Contracts between the department and a school district or districts are subject to approval by the department of education.

D. This article does not make the department or the state responsible for funding programs beyond the limits of legislative appropriation for the programs. This article does not require a provider of services to provide unreimbursed services to the department or its clients.

E. Contracts to provide community developmental disability services shall require that:

1. The contractor is obligated to operate a program or service in strict accordance with the standards adopted for that program or service by the department.

2. If state funding is provided for a particular program the contractor, to the extent of positions available that are being purchased by the department, shall provide services to a ~~developmentally disabled~~ client WITH A DEVELOPMENTAL DISABILITY who has been evaluated and placed by the department.

3. All contractors must carry liability insurance in amounts approved by the risk management division of the department of administration and file proof of insurance with the risk management division. The director may waive that requirement on a case by case basis on a finding that insurance for the program or service is not practicably available at affordable rates and that it is necessary that the program or service be provided by the contractor.

4. All clients enrolled in programs have all the same specified rights as they would have if enrolled in a program operated directly by the state.

5. Except for emergency placement pursuant to section 36-560, subsection N, payment shall not be made based on program services provided to

a client if a placement evaluation has not been made, and no individual program has been prepared and when, based on that placement evaluation, no recommendation has been made to enroll the client in the particular program service.

F. This article does not require a contracted agency to provide unreimbursed services to the department or a client of the department.

G. Contracts for the purchase of residential care services other than those community residential settings licensed pursuant to this chapter, in addition to other general requirements applicable to purchase of care contractors, shall:

1. Provide for mandatory inspection by the department every two years for facilities other than group homes.

2. Provide for mandatory monitoring by the department for health, safety, contractual and programmatic standards at least every six months, unless the department has granted deemed status to the service provider or the service provider received a score of at least ninety-five per cent on the most recent monitoring visit. If the department has granted deemed status or awarded the service provider with a score of at least ninety-five per cent on the most recent monitoring visit, it shall monitor that provider once each year. On determination by the department that there is reasonable cause to believe a service provider is not adhering to the department's programmatic or contractual requirements, the department and any duly designated employee or agent of the department may enter on and into the premises at any reasonable time for the purpose of determining the state of compliance with the programmatic or contractual requirements of the department.

3. Provide for mandatory investigation by the department in response to complaints within ten working days, except that in those instances that pose a danger to the client, the department shall conduct the investigation immediately. Health and safety complaints related to group homes shall be referred to the department of health services on receipt. The department of health services shall share all incident reports related to health and safety with the division of developmental disabilities.

4. Except for group homes licensed by the department of health services, specify the health and safety and sanitation codes and other codes or standards applicable to the facility or to the operation of the facility by the contractor other than group homes.

5. Provide for mandatory periodic reports to be filed by the provider contractor with the department with respect to the operation of the facility.

6. Provide that the facility and the books and records of the facility and of the provider are subject to inspection at any time by employees of the department or designees of the department.

7. Provide that parents and guardians of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES residing at the facility, members of the developmental disabilities advisory council, and members of other

recognized and ongoing advocacy groups for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES may inspect the facility at reasonable times.

H. Contracts for purchase of residential care services shall require a community residential setting to be licensed pursuant to this chapter other than group homes licensed by the department of health services.

I. The division shall ensure that all contracted developmental disabilities service providers rendering services pursuant to this chapter are reimbursed in accordance with title XIX of the social security act.

J. Contracts for client services issued by the department shall include language outlining the provisions for a grievance and appeal procedure. The director shall provide notice to providers not less than thirty days before the issuance of an amendment to a qualified vendor agreement. The decision of the director regarding qualified vendor agreement amendments may be appealed pursuant to title 41, chapter 6, article 10. The grievance process applicable to these contracts shall comply with title XIX requirements.

K. As a condition of contracts with any developmental disabilities service provider, the director shall require terms that conform with state and federal laws, title XIX statutes and regulations and quality standards. The director shall further require contract terms that ensure performance by the provider of the provisions of each contract executed pursuant to this article.

L. The division shall establish a rate structure that ensures an equitable funding basis for private nonprofit or for profit agencies for services pursuant to subsection B of this section and section 36-2943. In each fiscal year, the division shall review and adjust the rate structure based on section 36-2959. A rate book shall be published and updated by the division to announce the rate structure that shall be incorporated by reference in contracts for client services.

M. The division shall disclose to a service provider in the individual program plan defined by section 36-551, and in all meetings resulting from a response to a vendor call, any historical and behavioral information necessary for the provider to be able to anticipate the client's future behaviors and needs, including summary information from the program review committee, unusual incident reports reviewed by the human rights committee and behavioral treatment plans. The division shall redact the client's identification from this information.

N. Service providers are authorized to engage in the following activities in accordance with a client's individual program plan:

1. Administer medications, including assisting with the client's self-administration of medications.

2. Log, store, remove and dispose of medications.

3. Maintain medications and protocols for direct care.

4. Serve as the client's representative payee if requested by the client or the client's guardian and approved by the payer.

O. The department may adopt rules establishing procedures for engaging in the activities listed in subsection N of this section.

P. To protect the health and safety of a client, a provider must notify the division within twenty-four hours if an emergency situation exists in which the provider is unable to meet the health or safety needs of the client.

Q. On notification of an emergency situation, the department shall hold an individual program plan meeting within fifteen days after notification to recommend any changes, including whether there is a need for temporary additional staffing to provide appropriate care for a client, and develop a plan within thirty days after notification to resolve the situation.

Sec. 124. Section 36-558.01, Arizona Revised Statutes, is amended to read:

36-558.01. Operation, support and supervision of foster homes; duties of department

A. The department shall operate directly or support and supervise child developmental foster homes and foster homes licensed pursuant to title 8, chapter 5, article 1 to provide specialized foster care to ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES. Such homes shall be operated for persons placed pursuant to sections 8-514.01 and 8-845 and for appropriate placements for persons for whom application for residential services has been made to the department.

B. In furtherance of its responsibility pursuant to subsection A, the department shall recruit, license and support such homes in accordance with the provisions of this chapter, maintain regular supervision of such homes and such placements, conduct training programs for the staff of such homes and develop the program and service standards for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES to be placed in such homes.

C. Foster homes supported by the department shall be paid for each ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY placed in the home an amount determined by the department based on the type of developmental disability and the consequent need for programs and services of each person so placed.

Sec. 125. Section 36-559, Arizona Revised Statutes, is amended to read:

36-559. Eligibility for developmental disabilities programs, services and facilities

A. Except as provided in subsection B of this section, a person with a developmental disability is eligible to apply for developmental disabilities programs, services and facilities operated by, licensed and supervised by or supported by the department if such person:

1. Is a bona fide resident of the state of Arizona.

2. Is ~~developmentally disabled~~ A PERSON WITH A DEVELOPMENTAL DISABILITY as defined in this chapter and provides medical and psychological

1 documentation of such developmental disability utilizing tests which are
2 culturally appropriate and valid, or is an infant and as a result of tests
3 performed pursuant to section 36-694, or other appropriate tests, there is
4 strongly demonstrated potential that the infant ~~is developmentally disabled~~
5 HAS A DEVELOPMENTAL DISABILITY or will ~~become developmentally disabled~~ HAVE A
6 DEVELOPMENTAL DISABILITY.
7 B. After the department conducts preadmission screening pursuant to
8 section 36-2936 and determines that a ~~developmentally disabled~~ person WITH A
9 DEVELOPMENTAL DISABILITY may be potentially eligible for the Arizona
10 long-term care system pursuant to chapter 29, article 2 of this title, the
11 person shall be referred to the Arizona health care cost containment system
12 administration for an eligibility determination pursuant to section 36-2933,
13 if either of the following applies:
14 1. The person is a new applicant who is not receiving services and
15 applies for services pursuant to this chapter.
16 2. The person is eligible for services pursuant to this chapter and
17 would receive services, other than case management, if state funding were
18 available.
19 C. A person who is referred to the Arizona health care cost
20 containment system administration shall first be determined eligible or
21 ineligible for the Arizona long-term care system, pursuant to chapter 29,
22 article 2 of this title, before receiving services pursuant to this
23 chapter. Applicants who voluntarily refuse to cooperate in the eligibility
24 process are not eligible for services pursuant to this chapter. An
25 applicant's or current service recipient's refusal to establish or convert an
26 estate or trust pursuant to section 36-2934.01 shall be deemed a voluntary
27 refusal to cooperate. A form explaining loss of benefits due to a voluntary
28 refusal to cooperate shall be signed by the applicant or current service
29 recipient. Voluntary refusal to cooperate shall not be construed to mean the
30 applicant's inability to obtain documentation required for eligibility
31 determination.
32 D. The department shall determine eligibility. If the person is not
33 eligible, the department of economic security shall refer the person to the
34 department of health services for treatment as directed by the court to
35 coordinate necessary and reasonable services. Services provided pursuant to
36 this subsection are subject to the availability of funding.
37 Sec. 126. Section 36-560, Arizona Revised Statutes, is amended to
38 read:
39 36-560. <u>Admission</u>
40 A. Persons shall be admitted to developmental disabilities programs or
41 services operated by or supported by the department only pursuant to the
42 procedures prescribed in this chapter. An application for admission shall be
43 submitted on forms provided by the department in accordance with the rules
44 and procedures adopted by the department.

B. Admission into any developmental disabilities program or service operated by the department or supported by the department is subject to availability of space in any program or service and is subject to annual legislative appropriation and other available funding.

C. A person shall not receive developmental disabilities services unless proof of the requirements set forth in section 36-559 is provided.

D. An application shall be signed by the responsible person. An admission or assignment of any client to a program, service or facility shall not be made without the consent of the responsible person. If an application for admission to a residential program is made for a client who is fourteen to eighteen years of age and who is capable of giving voluntary informed consent, that client and the client's parent or guardian shall jointly apply, unless it appears to the department that the client is manifestly incapable of giving consent. An adult capable of giving consent may apply for admission and may be assigned to programs, services or facilities.

E. If an adult applicant applies for admission, or when a minor client served directly or indirectly by the department becomes eighteen years of age, and the applicant or client reasonably appears to be impaired by developmental disabilities to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, the department shall require that prior to receiving or continuing to receive developmental disabilities programs or services the applicant have a guardian appointed pursuant to title 14, chapter 5, or shall have had a judicial determination made that it is not necessary to appoint a guardian for that person.

F. There shall be no judicial admissions except pursuant to section 8-242 and as stipulated in section 36-559, subsection D.

G. No person may be admitted or assigned to any developmental disabilities facility, program or service unless the person has received a placement evaluation to determine the need for the developmental disabilities programs and services which are appropriate for that person and the admittance or assignment is consistent with the recommendation or placement evaluation. Each placement evaluation shall be governed by the following conditions:

1. The placement evaluation team shall consist of a group assigned by the department which shall include a department employee to serve as the case manager, the parent or guardian of the applicant and appropriate program staff of the department. Counsel for the applicant and a friend or advocate of the applicant designated in the application for admission may also attend the evaluation sessions for the applicant.

2. A placement evaluation report shall be prepared within thirty days after the placement evaluation is initiated which shall recommend the assignment of the applicant to certain designated types of developmental disabilities programs or services operated by or supported by the department.

In this process the specific assignment request of the responsible person shall be given strong consideration.

3. A placement evaluation conducted by the department for the purpose of determining appropriate developmental disabilities programs and services shall not include an evaluation of a child for placement in a special education program in a school district.

4. The procedure prescribed in section 36-559, subsection D constitutes a placement evaluation for the purposes of this chapter.

H. The standards for determining the assignment for the applicant to a particular service shall be in the best interest of the client, taking into consideration the age, the degree or type of developmental disability, the presence of other ~~handicapping~~ DISABLING conditions of the applicant, the ability to provide the applicant with the maximum opportunity to develop the person's maximum potential, to provide a minimally structured residential program and environment for the applicant and to provide a safe, secure and dependable residential and program environment for the applicant and the particular desires of the applicant. In making this determination, the placement evaluation team shall consider the reports of all previous placement-type evaluations performed for such applicant, the medical and program history of the applicant and the services and programs available from this state, contractors of this state and other providers.

I. After the placement evaluation report has been issued and the responsible person accepts the assignment of all programs or services, the department shall enroll the applicant in the programs or services within thirty days, subject to the provisions of subsection B of this section. If the applicant cannot be enrolled within thirty days, written and oral notice, subject to the requirements of section 36-551.01, subsection P, shall be given to the applicant and the responsible person, within ten days of the department's determination that the applicant cannot be enrolled, informing such persons of the department's determination. The notice shall also include the appropriate procedures, which the applicant or the responsible person should follow to assure that the applicant is enrolled.

J. The department may attach conditions to the direct or indirect provision of services with which the client would be required to comply in order to receive the services. These conditions may include requiring the client to participate in appropriate day programs as a condition of providing residential services and residential facilities. A client assigned to a residential program may be required to assist in daily housework in maintaining the facility as part of the client's individual program.

K. The department may refuse to provide specific services that are requested by the client but that are not recommended for the client as a result of the evaluation.

L. Application for admission shall be one of the following types:

1. "Regular admission" for placement of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY for developmental disabilities

programs and services after a placement evaluation has been conducted for such person.

2. "Emergency admission" for placement of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY when there is an immediate and compelling need for short-term developmental disabilities programs and services.

M. Regular admission shall be permitted only after a placement evaluation has been conducted and only if space is available at the facility or in the program or service in which placement is requested.

N. Emergency admission for ~~developmentally disabled~~ applicants WITH DEVELOPMENTAL DISABILITIES shall be permitted even though a placement evaluation has not been performed, if:

1. Space is available at the facility or in the program or service in which placement is requested.

2. The department determines that the facility, program or service will meet the needs of the client.

3. The client has an urgent need for short-term placement and care which the facility, program or service provides and is otherwise eligible for services pursuant to the requirements set forth in section 36-559.

O. Developmental disabilities programs and services may be provided to a ~~developmentally disabled~~ person WITH DEVELOPMENTAL DISABILITIES admitted pursuant to an emergency admission for a period not to exceed sixty consecutive days following admission or until a placement evaluation is performed, whichever period first occurs.

Sec. 127. Section 36-562, Arizona Revised Statutes, is amended to read:

36-562. Schedule of financial contribution; review of payment order

A. Money for the support of a person with a developmental disability in a residential program operated or supported by the department, except for children placed in special foster homes as described in section 36-558.01, pursuant to sections 8-242, 8-514.01 and 8-845, shall be paid to the department, and by it deposited, pursuant to sections 35-146 and 35-147, and shall continue to be paid unless the person is terminated from such residential program.

B. The financial contribution by the parent of a minor with a developmental disability shall terminate on the eighteenth birthday of such person. The financial contribution by parents on behalf of two or more persons with developmental disabilities receiving developmental disabilities programs or services shall not exceed the maximum amount such parents would be required to pay if only one of such children were receiving the programs or services.

C. The department shall by rule prescribe a fee schedule for developmental disability residential programs provided directly or indirectly by the department. The amount of annual liability of a person with a

developmental disability or parent for residential programs and services provided shall be based on the percentage of gross income of the person with a developmental disability or parent, as defined by section 61 of the United States internal revenue code, except that part of the gross income of a self-employed person that results from the operation of his business shall be adjusted by the deductions allowed in the internal revenue code relating to such income in computing adjusted gross income.

D. For a person with a developmental disability or a parent of a minor with a developmental disability with an estate, trust or annuity, the amount of annual liability for residential programs and services shall be based on the actual cost of services until the individual meets the financial eligibility requirements for federal social security supplemental income benefits or the financial eligibility requirements for the Arizona long-term care system. In billing a trust, the department is not limited to trust income, but shall also bill the trust corpus.

E. The director shall review his order for payment for residential care and services at least annually, and shall require the responsible person to update the financial information provided annually or at any time on request by the county board of supervisors or by the parent, guardian, or other person making such payments. Section 36-563 applies to any order or change in order for payment.

F. The responsible person shall furnish current financial information to the director and to the appropriate county board of supervisors at the times and on the forms and in the manner prescribed by the director, provided that such information shall be held by the director and the county board of supervisors to be strictly confidential, and it shall not be divulged except in the instance where it is necessary in connection with legal action.

G. A financial contribution, which shall not exceed the actual cost of the programs and services provided, may be required from the client or the parent, spouse or estate of a person with a developmental disability for the cost of any nonresidential developmental disability program or service operated by or supported by the department. The department shall by rule adopt a fee schedule for financial contributions. The amount of liability of a client or the parent, spouse or estate of a client for nonresidential services and programs or any combination of residential and nonresidential services and programs shall not exceed the amount of the fee prescribed for residential services in subsection C of this section. Counties are not required to contribute to the cost of nonresidential services or programs provided to clients.

H. The amount payable by the person with a developmental disability or the person's parent or estate for residential services shall be fixed by the director in accordance with the fee schedule prescribed in this section.

I. Money paid by a client, parent or guardian shall be paid to the director and deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

J. The department shall provide monthly, or more frequent, billings, as required, to all persons responsible for paying for ~~developmentally disabled~~ DEVELOPMENTAL DISABILITY residential or nonresidential services and programs provided directly or indirectly by the department. The department shall require all purchase of care providers to provide current lists of all persons receiving residential or nonresidential services and programs in facilities operated by such providers. The department shall forward reports of delinquent billings for residential and nonresidential services and programs provided by the department or by contractors to the attorney general for collection.

K. The department shall notify each client and the parent or guardian of such client for whom it has determined that contributions are required for the cost of residential or nonresidential services and programs that it reserves the right to terminate developmental disability residential or nonresidential services and programs to a client for nonpayment of fees required to be paid pursuant to this section.

L. Any person affected by an order of the director for payment of costs of care may contest such order and request an administrative hearing pursuant to section 36-563. Any person liable for the costs of care of a client may appeal to the director, pursuant to section 36-563, for a reduction in the amount of payment for such costs of care on the basis of hardship.

M. Notwithstanding subsections C and H of this section, the department may require clients who are receiving residential programs and who receive income or benefits to contribute to the cost of their support and maintenance, subject to the provisions of federal laws and regulations. Such contributions shall not be subject to subsections A and I of this section. The department shall adopt rules that determine the amount and means of payment of such contributions, except that in no event shall the combined contribution made on behalf of a client by a client or the client's parent or estate exceed the actual cost of the residential programs provided. A minimum of twelve per cent of the client's income or benefits shall be retained for the client's personal use.

Sec. 128. Section 36-564, Arizona Revised Statutes, is amended to read:

36-564. <u>Guardianship</u>

A. Guardians for clients acting under the provisions of this chapter shall be appointed pursuant to title 14, chapter 5, articles 1, 2, 3 and 6.

B. The department shall request the appointment of a guardian for minor clients receiving services under the provisions of this chapter if no parent is willing and competent to act, and shall request the appointment of a guardian for adult clients receiving services under the provisions of this chapter if it appears that the ~~appointment~~ APPOINTMENT of a guardian would be in the client's best interests in accordance with section 14-5304.

C. When no person or corporation is qualified and willing to act as guardian for a client, the department shall notify the public fiduciary of the county where the client is receiving services of the need for appointment of a guardian.

D. Guardianship or conservatorship for ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES shall be utilized only as is necessary to promote the well-being of the individual, be designed to encourage the development of maximum self-reliance and independence in the individual, and shall be ordered only to the extent necessitated by the individual's actual mental, physical and adaptive limitations.

Sec. 129. Section 36-565, Arizona Revised Statutes, is amended to read:

36-565. Periodic evaluations of persons with developmental disabilities

A. Evaluations of the client's placement shall be made at six-month intervals after a ~~developmentally disabled~~ client WITH A DEVELOPMENTAL DISABILITY has been enrolled in a developmental disabilities program or services operated by or supported by the department. The department, upon such evaluation, shall recommend to the responsible person any change in the developmental disabilities program or service for the ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY, in accordance with the results of such evaluations.

B. If an evaluation has been conducted, and it is determined that the client is in a program or service no longer appropriate to his individual needs or that he can be better treated and habilitated in another facility, program or service, the department shall transfer the client to another developmental disabilities program or service or terminate the client from the developmental disabilities program or service pursuant to this chapter or the department may recommend additional services for the client as reported by the evaluation, and enroll the client in such additional services.

C. The client, parent and guardian shall be given thirty days' written notice of the proposed transfer, termination or substantial change of services under this chapter. The client, parent and guardian shall also be informed in writing of the right to an administrative review pursuant to section 36-563 for the purposes of contesting the proposed action. If an administrative review is requested, no transfer, termination or substantial change of services shall be made until the decision resulting from the review is issued.

D. The department shall establish rules and regulations concerning the standards of placement of clients from one program setting to another.

Sec. 130. Section 36-569, Arizona Revised Statutes, is amended to read:

36-569. Prohibitions; violations; classification

A. Improper, abusive treatment or neglect of a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY is prohibited. For the purposes of this section:

1. "Abusive treatment" means:

(a) Physical abuse by inflicting pain or injury to a client. This includes hitting, kicking, pinching, slapping, pulling hair or any sexual abuses.

(b) Emotional abuse which includes ridiculing or demeaning a client, making derogatory remarks to a client or cursing directed toward a client.

(c) Programmatic abuse which is the use of an aversive stimuli technique that has not been approved as a part of such person's individual program plan and which is not contained in the rules and regulations adopted pursuant to subsection B of section 36-561. This includes isolation or restraint of a client.

2. "Neglect" means:

(a) Intentional lack of attention to physical needs of clients such as toileting, bathing, meals and safety.

(b) Intentional failure to report client health problems or changes in health condition to immediate supervisor or nurse.

(c) Sleeping on duty or abandoning work station.

(d) Intentional failure to carry out a prescribed treatment plan for a client.

B. A person who violates any provision of this section is guilty of a class 2 misdemeanor.

Sec. 131. Section 36-572, Arizona Revised Statutes, is amended to read:

36-572. Client developmental disability services trust fund; donation account

A. A ~~developmentally disabled~~ client WITH A DEVELOPMENTAL DISABILITY services trust fund is established.

B. The fund consists of DONATIONS AND the proceeds of the sale or lease of the real property and buildings and improvements on the real property used by the department of economic security for the Arizona training program at Phoenix.

C. The proceeds of the sale or lease shall be deposited, pursuant to sections 35-146 and 35-147, in the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund. The ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund is separate and apart from all other funds.

D. Monies in the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund may only be spent for client services provided by the department of economic security and with the approval of the

developmental disabilities advisory council. Those clients on the department's developmental disabilities waiting list shall also be included in these services as far as possible.

E. Expenditures from the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund for the previous year shall be reported to the legislature in the course of the department of economic security's annual budget request. The trust fund shall not be a factor to influence or diminish the annual appropriation to the department for client services.

F. The state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

G. Interest or other income derived from the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund shall be used to enhance the services presently available to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES and to extend services to ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES not presently served. Interest or other income derived from the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund shall not be used to supplant general fund appropriations for developmental disabilities programs.

H. Donations directed to the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund shall be deposited into the ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund donation account, and shall be used to enhance the services presently available to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES and to extend services to ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES not presently served. Donations received shall not be used to supplant general fund appropriations for developmental disabilities programs. The developmental disabilities advisory council shall oversee and approve expenditures of the donations, pursuant to sections 35-149 and 36-553, for expenditures from the ~~developmentally disabled~~ client WITH DEVELOPMENTAL DISABILITIES services trust fund donation account.

Sec. 132. Section 36-595.01, Arizona Revised Statutes, is amended to read:

36-595.01. Access to facilities

A group home shall allow the following to inspect the facility at reasonable times:

1. Parents and guardians of facility residents.

2. Members of the developmental disabilities advisory council.

3. Members of recognized, established groups that advocate for ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

Sec. 133. Section 36-596.01, Arizona Revised Statutes, is amended to read:

36-596.01. Liens; perfection; recording; assignment; notice of lien; compromise

A. The department is entitled to a lien for the charges for hospital or medical care and treatment paid by the department on behalf of ~~a developmentally disabled~~ AN injured person WITH A DEVELOPMENTAL DISABILITY on any and all claims of liability or indemnity for damages accruing to the ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY on account of injuries giving rise to the claims and which necessitated the hospital or medical care and treatment.

B. The department shall perfect a lien by filing a verified written statement in the office of the county recorder in the county in which the injury occurred. This statement shall contain the following information:

1. The name and address of the injured person. The department shall not include this information if department records indicate that the injuries may be the result of a public offense as defined in section 13-105.

2. The name and address of the department.

3. The date of admission to the hospital and the date of discharge.

4. All dates on which medical or long-term care was provided.

5. The amount the department knows to be due for hospitalization, medical care and treatment including the amount for which the department is responsible.

6. The names and addresses of all persons, firms and corporations, including insurance carriers, alleged to be liable for the injuries.

C. The department shall record this information within thirty days after the injured person is discharged from a hospital or otherwise treated for injuries.

D. Within five days of its recording, the department shall mail a copy of the lien to each person, firm or corporation, including an insurance carrier listed in the lien and the person, or the parent or guardian of the person, receiving services pursuant to this article.

E. The recording of the lien is notice to all persons, firms and corporations, including insurance carriers, that are liable for damages whether or not specifically named in the lien.

F. The department may assign the lien in whole or in part to a provider that is responsible for hospital, medical or long-term care services.

G. The director shall establish by rule procedures for a provider to notify the department concerning the delivery of hospital, medical or long-term care services to a person who may have claims for damages.

H. The department may amend a lien to reflect current charges, except the department may not amend a lien after the time of final settlement of a claim pursuant to subsection A if the department is given notice of an

impending settlement at least five days excluding Saturdays and holidays before the final settlement.

I. A public entity shall compromise a claim it has pursuant to section 11-291, 12-962, 36-596, 36-2903, 36-2935, 36-2956 or this section if, after considering the following factors the public entity determines that the compromise provides a settlement of the claim that is fair and equitable:

1. The nature and extent of the person's injury or illness.

2. The sufficiency of insurance or other sources of indemnity available to the person.

3. Any other factor relevant for a fair and equitable settlement under the circumstances of a particular case.

Sec. 134. Section 36-596.56, Arizona Revised Statutes, is amended to read:

36-596.56. Eligibility; program plans; burial arrangements

A. A person who is eligible for services pursuant to section 36-559 is also eligible to receive services under this article if that person is recommended to receive services under the individual program plan. A person shall also meet any applicable eligibility requirements or guidelines in order to receive family support services funded in whole or in part with federal monies.

B. The division shall review the plan to determine if the person is eligible for services and if monies are available. This review shall take place at the district level.

C. To be eligible for services, a family shall:

1. Express and demonstrate a willingness to keep the ~~disabled~~ family member WITH A DISABILITY at home or in the community.

2. Agree to cooperate with the providers of services in developing, implementing and evaluating the family support services that are part of the individual program plan.

3. Demonstrate a need for services.

4. Undergo an evaluation by the division of the family's financial resources, including monies from other state and federal programs that are available to the family.

5. Comply with other factors the division determines are necessary for eligibility.

D. An annual individual program plan team shall determine what services shall be provided to an individual with a developmental disability or a family on behalf of a family member with a developmental disability and which shall be specified in the plan itself. The case manager shall coordinate the plan. The plan shall include the following:

1. A finding of the family's need for services and an indication of the family's strengths and resources that the plan may supplement or support to meet the family's needs.

2. Notice of the specific programs, subsidies and services for which the family is eligible.

3. A clear explanation of the way in which the programs, subsidies and services shall be provided.

4. A statement of the specific goals of the plan and the methods to be used to achieve these goals.

5. A timetable for achieving goals.

6. Notice of the annual determination of continued eligibility and of reportable events that will trigger an earlier eligibility determination.

E. To ensure continued eligibility, a family shall promptly report any changes in the family, the need for services, income and all other circumstances that relate to eligibility.

F. The individual program plan team shall annually review the eligibility of each family or individual in the family support program. The plan shall be distributed to the team not more than twenty days after the annual review meeting. This review shall include:

1. An eligibility review of the needs of the family or the individual.

2. A report prepared by the family and the case manager on whether the needs and goals of the individual program plan are being met.

3. A report of the circumstances that might trigger an earlier review of eligibility.

4. A review of the family's financial resources.

G. A family may request a review described in subsection F of this section at any time.

H. The client's individual program plan shall include provisions relating to the client's burial arrangements, including a choice of cremation or burial and instructions regarding religious services, if any. Monies set aside for this purpose are not excluded from the income eligibility requirements of section 36-2934 and title XIX of the social security act. Monies set aside for this purpose shall be excluded or counted as a resource for eligibility purposes in accordance with section 1613 of the social security act. The costs of burial under this subsection are not the financial responsibility of this state.

Sec. 135. Section 36-671, Arizona Revised Statutes, is amended to read:

36-671. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "Department" means the department of health services.

2. "Director" means the director of the department of health services.

3. "Documentary proof" means written evidence that a pupil has been immunized or has laboratory evidence of immunity which conforms with the standards promulgated pursuant to section 15-872.

4. "Dose" means the number in a series of immunizations which may be prescribed pursuant to section 36-672.

5. "Health agency" means a local health department or similar governmental agency established pursuant to the laws of another state or country and its officers and employees.

6. "Immunization" means the process of inoculation with a specific antigen to promote antibody formation in the body.

7. "Immunized" means the required initial immunization and boosters or reimmunization prescribed pursuant to section 36-672.

8. "Laboratory evidence of immunity" means written evidence of serologic confirmation of the presence of specific antibodies against an immunization-preventable disease which is signed by a physician or an authorized representative of a health agency.

9. "Local health department" means local health departments established pursuant to chapter 1, article 4 of this title.

10. "Physician" means a person licensed pursuant to title 32, chapter 13, 17 or 29 or a person licensed to practice allopathic or osteopathic medicine under the laws of another state or country.

11. "Pupil" means a person who is eligible to receive instruction at a school and includes pre-kindergarten age children receiving either services for ~~the handicapped~~ CHILDREN WITH DISABILITIES or day care on a school campus otherwise exempt from day care rules pursuant to section 36-884.

12. "School" means a public, private or parochial school that offers instruction at any level or grade through twelfth grade, except for day care facilities regulated pursuant to chapter 7.1 of this title.

13. "School administrator" means the principal or person having general daily control and supervision of the school or that person's designee.

Sec. 136. Section 36-695, Arizona Revised Statutes, is amended to read:

36-695. Acceptance of congressional act relating to the supplemental security income to children with disabilities program

A. This state accepts the conditions of title XVI of the social security act, section 1615, enacted October 20, 1976 (P.L. 94-566; 90 Stat. 2683, 42 U.S.C. sec. 138 2d).

B. The department of health services is designated as the state agency to cooperate with the department of health and human resources for the administration of the supplemental security income to ~~disabled children's~~ CHILDREN WITH DISABILITIES program, as authorized by section 1615 of title XVI of the social security act.

Sec. 137. Section 36-697, Arizona Revised Statutes, is amended to read:

36-697. Health start program; administration

A. Subject to appropriated monies the health start program is established in the department of health services. The program shall serve pregnant women, children and their families. The program shall be statewide, based in identified neighborhoods and delivered by lay health workers through prescheduled home visits or prescheduled group classes that begin before the child's birth or during the postnatal period and that may continue until the child is two years of age. The department shall establish the criteria to be

used in evaluating communities and neighborhoods to be served by competing program proposals. The evaluation criteria shall include at a minimum a high incidence of the following:

1. Inadequate prenatal care.

2. Inadequate infant health care.

3. Infants who at birth weigh less than one thousand five hundred grams and who require more than seventy-two hours of neonatal intensive care.

4. Inadequate early childhood immunizations.

B. The department shall establish at a minimum the following goals for the program:

1. Reduce the incidence of infants who at birth weigh less than one thousand five hundred grams and who require more than seventy-two hours of neonatal intensive care.

2. Reduce the incidence of children affected by childhood diseases.

3. Increase the number of children receiving age appropriate immunizations by two years of age.

4. Increase awareness by educating families:

(a) On the importance of good nutritional habits to improve the overall health of their children.

(b) On the need for developmental assessments to promote the early identification of learning disabilities, physical ~~handicaps~~ DISABILITIES or behavioral health needs.

(c) Of the benefits of preventative health care and the need for screening examinations such as hearing and vision.

5. Increase prenatal care services to pregnant women.

C. The department shall:

1. Develop program criteria and staff training requirements.

2. Contract with local private and public agencies to recruit and train lay health workers.

3. Enter into interagency agreements to maximize funding for the program.

4. Distribute the Arizona children and families resource directory compiled under section 36-698 to hospitals for distribution to the families of any newly born child in order to help them answer questions concerning early childhood development.

5. Link program participants to programs that reduce illiteracy, reduce dependency on welfare, encourage employment, encourage self-sufficiency and encourage community involvement by program participants through community service, employment or participation in religious or social organizations.

6. Develop employment guidelines for program personnel that include background checks for those personnel who will have direct contact with pregnant women or families or who will have access to program participant records.

D. The program, through lay health workers, shall:

1. Identify, screen and enroll pregnant women in the lay health worker's neighborhood or community.

2. Inform program participants of how to receive prenatal care services.

3. Assist program participants to access appropriate prenatal care.

4. Educate program participants on appropriate prenatal and neonatal care, preventative health care and child wellness, including appropriate nutritional habits to improve the overall health of their children.

5. Assist and encourage program participants to provide age appropriate immunizations so that their children are fully immunized by two years of age.

6. Provide participants with a list of local private, both nonprofit and for profit, providers and governmental agencies providing the services included in paragraphs 1 through 5 of this subsection.

E. Program services shall not be provided under this section unless:

1. Participation in the program is initiated in response to a request by A potential program participant.

2. A verbal explanation of the program is provided to program participants including an explanation of the rights and responsibilities of both the participant and the program provider.

3. The written, informed consent of the program participants is received. The consent form shall include at least a clear description of the program including the activities and information to be provided by the program during prescheduled home visits or prescheduled group classes, the number of expected home visits and prescheduled group classes, the right of program participants to terminate participation in the program at any time, any responsibilities of the program participants, a statement that a record will be made and maintained of the visits and sessions and may be available in future court proceedings, and any other information that is necessary to convey to the program participants a clear understanding of the program.

4. If the contact occurs at the primary residence of the potential program participant, program personnel do not enter the residence during the initial contact without that person's permission.

F. If the potential program participant is a minor living with the minor's parent or guardian, home visits shall not be provided under this section without the additional written consent of the parent or guardian.

G. Program participants have access to the records on their own family at all times and have the right to correct any inaccurate information included in the records. Records, except for nonidentifiable demographic characteristics, shall be destroyed five years after the participant's last involvement in the program. Program records are not available to other government agencies or programs in the department without specific prior written consent by the program participant for the release of information in the program participant's records.

Sec. 138. Section 36-899.01, Arizona Revised Statutes, is amended to read:

36-899.01. Program for all school children; administration

A. A program of hearing evaluation services is established by the department. Such services shall be administered to all children as early as possible, but in no event later than the first year of attendance in any public or private education program, or residential facility for ~~handicapped~~ children WITH DISABILITIES, and thereafter as circumstances permit until the child has attained the age of sixteen years or is no longer enrolled in a public or private education program.

B. The program of hearing evaluation services for children in a public education program shall be administered by the department with the aid of the department of education.

Sec. 139. Section 36-1409, Arizona Revised Statutes, is amended to read:

36-1409. Rentals and tenant selection

A. In the operation or management of housing projects a public housing authority, city, town or county shall at all times observe the following duties with respect to rentals and tenant selection:

1. Unless the commissioners have determined that a mixed income project is in the community's best interests, the public housing authority, city, town or county may rent or lease the dwelling accommodations only to persons of low income and at rentals within the financial reach of such persons.

2. It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants, without overcrowding.

3. It shall fix income limits for occupancy and rents after taking into consideration the family size, composition, age, ~~handicaps~~ DISABILITY and other factors which might affect the rent-paying ability of the person and the economic factors which affect the financial stability and solvency of the project.

B. This section and section 36-1408 do not limit the power of a public housing authority, city, town or county to vest in an obligee the right, in the event of a default by the city, town or county, to take possession of and operate a housing project or to cause the appointment of a receiver, free from all the restrictions imposed by this section or section 36-1408.

Sec. 140. Section 36-1409.01, Arizona Revised Statutes, is amended to read:

36-1409.01. Pets for elderly tenants and tenants with disabilities; exceptions; conditions; appeal procedures; definitions

A. Notwithstanding any other statute, a public agency which owns, operates, manages or contracts for rental housing accommodations shall not

prohibit elderly TENANTS or ~~handicapped~~ tenants WITH DISABILITIES from keeping pets in their dwelling units.

B. This section does not prevent a public agency which owns, operates, manages or contracts for rental housing accommodations from requiring the removal of any pet which by its conduct or condition constitutes a threat or nuisance to other occupants of the housing project. A person shall not keep a pet in violation of health statutes or under circumstances constituting cruelty to animals ~~as defined in~~ PURSUANT TO section 13-2910.

C. A public agency which owns, operates, manages or contracts for rental housing accommodations shall not impose any requirement which makes the keeping of a pet by an elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY financially prohibitive and shall not in any case require a deposit of more than one month's rent for the keeping of a pet. This section does not relieve an elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY from any liability otherwise imposed by law for damages caused by the tenant's pet.

D. A public agency which owns, operates, manages or contracts for rental housing accommodations is not liable for personal or property damage caused by a pet kept in the housing project by an elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY unless it is proved that its agents or employees had prior actual knowledge of a dangerous propensity of the pet or a dangerous condition created by the pet and did not take timely and reasonable measures to mitigate or protect against the perceived threat.

E. A public agency which owns, operates, manages or contracts for rental housing accommodations may adopt reasonable regulations relating to pets including number of pets and neutering when appropriate and may impose conditions for the tenancy of elderly TENANTS or ~~handicapped~~ tenants WITH DISABILITIES with pets different from those applicable to such tenants without pets, if these conditions are reasonably related to the presence of the pets.

F. An elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY or an elderly APPLICANT or ~~handicapped~~ applicant WITH A DISABILITY for tenancy may appeal from the adoption or application of any regulation or condition adopted pursuant to this section in accordance with grievance procedures of the particular housing authority which owns, operates, manages or contracts for the rental housing accommodations established to resolve tenant disputes. A copy of the grievance procedures shall be provided to an elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY or AN elderly APPLICANT or ~~handicapped~~ applicant WITH A DISABILITY for tenancy who keeps or wishes to keep a pet.

G. For THE purposes of this section:

1. "Elderly" means a person who is at least sixty years of age or as otherwise defined by a specific program.

2. "~~Handicapped~~ PERSON WITH A DISABILITY" means ~~having~~ A PERSON WHO HAS a physical impairment which substantially limits one or more of the

person's major life activities or ~~having~~ HAS a record of such an impairment or ~~being~~ HAS BEEN regarded as having such an impairment, as verified by a signed statement of a physician licensed pursuant to title 32, chapter 13 or 17.

3. "Pet" means a domesticated dog, cat, bird, fish, mouse, gerbil, hamster, turtle, guinea pig or chinchilla.

4. "Tenant" means a person who rents or resides in a dwelling unit in rental housing accommodations owned, operated, managed or contracted for by a public agency.

Sec. 141. Section 36-2201, Arizona Revised Statutes, is amended to read:

36-2201. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrative medical direction" means supervision of emergency medical care technicians by a base hospital medical director, administrative medical director or basic life support medical director. For the purposes of this paragraph, "administrative medical director" means a physician who is licensed pursuant to title 32, chapter 13 or 17 and who provides direction within the emergency medical services and trauma system.

2. "Advanced emergency medical technician" means a person who has been trained in an advanced emergency medical technician program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.

3. "Advanced life support" means the level of assessment and care identified in the scope of practice approved by the director for the advanced emergency medical technician, emergency medical technician I-99 and paramedic.

4. "Advanced life support base hospital" means a health care institution that offers general medical and surgical services, that is certified by the director as an advanced life support base hospital and that is affiliated by written agreement with a licensed ambulance service, municipal rescue service, fire department, fire district or health services district for medical direction, evaluation and control of emergency medical care technicians.

5. "Ambulance" means any publicly or privately owned surface, water or air vehicle, including a helicopter, that contains a stretcher and necessary medical equipment and supplies pursuant to section 36-2202 and that is especially designed and constructed or modified and equipped to be used, maintained or operated primarily for the transportation of individuals who are sick, injured or wounded or who require medical monitoring or aid. Ambulance does not include a surface vehicle that is owned and operated by a private sole proprietor, partnership, private corporation or municipal corporation for the emergency transportation and in-transit care of its employees or a vehicle that is operated to accommodate an incapacitated ~~or disabled~~ person OR PERSON WITH A DISABILITY who does not require medical

monitoring, care or treatment during transport and that is not advertised as having medical equipment and supplies or ambulance attendants.

6. "Ambulance attendant" means any of the following:

(a) An emergency medical technician, an advanced emergency medical technician, an emergency medical technician I-99 or a paramedic whose primary responsibility is the care of patients in an ambulance and who meets the standards and criteria adopted pursuant to section 36-2204.

(b) An emergency medical responder who is employed by an ambulance service operating under section 36-2202 and whose primary responsibility is the driving of an ambulance.

(c) A physician who is licensed pursuant to title 32, chapter 13 or 17.

(d) A professional nurse who is licensed pursuant to title 32, chapter 15 and who meets the state board of nursing criteria to care for patients in the prehospital care system.

(e) A professional nurse who is licensed pursuant to title 32, chapter 15 and whose primary responsibility is the care of patients in an ambulance during an interfacility transport.

7. "Ambulance service" means a person who owns and operates one or more ambulances.

8. "Basic life support" means the level of assessment and care identified in the scope of practice approved by the director for the emergency medical responder and emergency medical technician.

9. "Bureau" means the bureau of emergency medical services and trauma system in the department.

10. "Centralized medical direction communications center" means a facility that is housed within a hospital, medical center or trauma center or a freestanding communication center that meets the following criteria:

(a) Has the ability to communicate with ambulance services and emergency medical services providers rendering patient care outside of the hospital setting via radio and telephone.

(b) Is staffed twenty-four hours a day seven days a week by at least a physician licensed pursuant to title 32, chapter 13 or 17.

11. "Certificate of necessity" means a certificate that is issued to an ambulance service by the department and that describes the following:

(a) Service area.

(b) Level of service.

(c) Type of service.

(d) Hours of operation.

(e) Effective date.

(f) Expiration date.

(g) Legal name and address of the ambulance service.

(h) Any limiting or special provisions the director prescribes.

12. "Council" means the emergency medical services council.

13. "Department" means the department of health services.

14. "Director" means the director of the department of health services.

15. "Emergency medical care technician" means an individual who has been certified by the department as an emergency medical technician, an advanced emergency medical technician, an emergency medical technician I-99 or a paramedic.

16. "Emergency medical responder" as an ambulance attendant means a person who has been trained in an emergency medical responder program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.

17. "Emergency medical services" means those services required following an accident or an emergency medical situation:

(a) For on-site emergency medical care.

(b) For the transportation of the sick or injured by a licensed ground or air ambulance.

(c) In the use of emergency communications media.

(d) In the use of emergency receiving facilities.

(e) In administering initial care and preliminary treatment procedures by emergency medical care technicians.

18. "Emergency medical services provider" means any governmental entity, quasi-governmental entity or corporation whether public or private that renders emergency medical services in this state.

19. "Emergency medical technician" means a person who has been trained in an emergency medical technician program certified by the director or in an equivalent training program and who is certified by the director as qualified to render services pursuant to section 36-2205.

20. "Emergency receiving facility" means a licensed health care institution that offers emergency medical services, is staffed twenty-four hours a day and has a physician on call.

21. "Fit and proper" means that the director determines that an applicant for a certificate of necessity or a certificate holder has the expertise, integrity, fiscal competence and resources to provide ambulance service in the service area.

22. "Medical record" means any patient record, including clinical records, prehospital care records, medical reports, laboratory reports and statements, any file, film, record or report or oral statements relating to diagnostic findings, treatment or outcome of patients, whether written, electronic or recorded, and any information from which a patient or the patient's family might be identified.

23. "National certification organization" means a national organization that tests and certifies the ability of an emergency medical care technician and whose tests are based on national education standards.

24. "National education standards" means the emergency medical services education standards of the United States department of transportation or other similar emergency medical services education standards developed by that department or its successor agency.

25. "Paramedic" means a person who has been trained in a paramedic program certified by the director or in an equivalent training program and who is certified by the director to render services pursuant to section 36-2205.

26. "Physician" means any person licensed pursuant to title 32, chapter 13 or 17.

27. "Stretcher van" means a vehicle that contains a stretcher and that is operated to accommodate an incapacitated ~~or disabled~~ person OR PERSON WITH A DISABILITY who does not require medical monitoring, aid, care or treatment during transport.

28. "Suboperation station" means a physical facility or location at which an ambulance service conducts operations for the dispatch of ambulances and personnel and that may be staffed twenty-four hours a day or less as determined by system use.

29. "Trauma center" means any acute care hospital that provides in-house twenty-four hour daily dedicated trauma surgical services that is designated pursuant to section 36-2225.

30. "Trauma registry" means data collected by the department on trauma patients and on the incidence, causes, severity, outcomes and operation of a trauma system and its components.

31. "Trauma system" means an integrated and organized arrangement of health care resources having the specific capability to perform triage, transport and provide care.

32. "Validated testing procedure" means a testing procedure that is inclusive of practical skills, or an attestation of practical skills proficiency on a form developed by the department by the educational training program, identified pursuant to section 36-2204, paragraph 2, that is certified as valid by an organization capable of determining testing procedure and testing content validity and that is recommended by the medical direction commission and the emergency medical services council before the director's approval.

33. "Wheelchair van" means a vehicle that contains or that is designed and constructed or modified to contain a wheelchair and that is operated to accommodate an incapacitated ~~or disabled~~ person OR PERSON WITH A DISABILITY who does not require medical monitoring, aid, care or treatment during transport.

Sec. 142. Section 36-2281, Arizona Revised Statutes, is amended to read:

36-2281. <u>Infants; nutritional and medical denial or deprivation prohibited; definition</u>

A. A person shall not deny or deprive an infant of nourishment with the intent to cause or allow the death of the infant for any reason including:

1. The infant was born with a ~~handicap~~ DISABILITY.

2. The infant is not wanted by the parent, parents or guardian.

3. The infant is born alive by natural or artificial means.

B. A person shall not deprive an infant of necessary lifesaving medical treatment or surgical care.

C. This section shall not be construed to prevent an infant's parent, parents or guardian from refusing to give consent to medical treatment or surgical care which is not medically necessary, including care or treatment which either:

1. Is not necessary to save the life of the infant.

2. Has a potential risk to the infant's life or health that outweighs the potential benefit to the infant of the treatment or care.

3. Is futile treatment or treatment that will do no more than temporarily prolong the act of dying when death is imminent.

D. In determining whether any of the possible medical treatments will be medically necessary for an infant, reasonable medical judgments in selecting among alternative courses of treatment shall be respected.

E. In this article, "infant" means a child less than one year of age.

Sec. 143. Section 36-2283, Arizona Revised Statutes, is amended to read:

36-2283. Certain information to parents required

Any health care institution with a perinatal, obstetrical or pediatric unit shall make available to each parent of any newborn child born with an identifiable ~~handicap~~ DISABILITY information it receives from public or private agencies regarding agencies which are available to provide the parent with assistance, information or support pertaining to the care of the child and the manner in which the agencies may be contacted.

Sec. 144. Section 36-2902.01, Arizona Revised Statutes, is amended to read:

36-2902.01. Advisory council on Indian health care; membership; compensation; meetings

A. The advisory council on Indian health care is established consisting of the following members:

1. Twenty members appointed by the governor. Each Arizona Indian tribe may submit recommendations to the governor. There shall be no more than one representative from each Arizona Indian tribe. Each member shall represent an Arizona Indian tribe and shall be nominated by his tribal governing body. The governor shall make appointments from the following areas:

(a) Five tribal members who represent health care agencies. At least one of the appointees shall have experience in serving elderly ~~or physically disabled~~ clients OR CLIENTS WITH PHYSICAL DISABILITIES.

(b) Five tribal members who represent social service agencies. At least one of the appointees shall have experience in serving elderly ~~or physically disabled~~ clients OR CLIENTS WITH PHYSICAL DISABILITIES.

(c) Five tribal members who represent agencies serving the ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

(d) Two tribal members who represent tribal organizations or metropolitan Indian centers.

(e) Three tribal members serving at large.

2. One representative from the Arizona health care cost containment system appointed by the director.

3. One representative from the department of health services appointed by the director OF THE DEPARTMENT OF HEALTH SERVICES.

4. One representative from the department of economic security appointed by the director OF THE DEPARTMENT OF ECONOMIC SECURITY.

B. Federal representatives of the ~~health care financing administration~~ CENTERS FOR MEDICARE AND MEDICAID SERVICES, the Indian health service, the bureau of Indian affairs, the ~~veterans administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS and the executive office of management and budget shall be invited by the governor to serve as technical advisors to the council.

C. Except as provided in subsection A, paragraphs 2, 3 and 4, no member of the council may be an employee of this state.

D. Members of the council are not eligible to receive compensation, but members appointed pursuant to subsection A, paragraphs 1 and 2 are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

E. Members appointed pursuant to subsection A, paragraph 1 shall serve staggered two year terms. A tribal member who is absent without notice from three consecutive meetings vacates his membership. The governor shall appoint a new member within thirty days from the third unexcused absence. Vacancies occurring on the council shall be filled for the balance of the term.

F. The council shall elect a chairman and vice-chairman from its membership. The chairman and vice-chairman shall be members of a federally recognized Arizona Indian tribe. The election shall be held the first Monday in October of each year. The term of office shall be one year. The council shall meet at least six times a year and may meet more often at the call of the chairman or vice-chairman. A majority of the council constitutes a quorum.

G. A member serving pursuant to subsection B is not eligible to vote and is not a member for purposes of determining whether a quorum is present.

H. Meetings are open to the public and minutes of each meeting are open for public inspection.

Sec. 145. Section 36-2911, Arizona Revised Statutes, is amended to read:

36-2911. <u>Payment of monthly premiums</u>

A. The administration shall pay medicare part B premiums pursuant to federal law for and on behalf of a member who is eligible pursuant to section 36-2901, paragraph 6, subdivision (a), item (i) or (ii) and who is enrolled pursuant to this article and article 2 of this chapter.

B. The administration shall pay the medicare part A hospital premium for each qualified ~~disabled~~ PERSON WITH A DISABILITY and working individual who is determined eligible pursuant to section 1905(s) of title XIX of the social security act. The administration shall determine the eligibility of all persons who are qualified ~~disabled~~ WITH A DISABILITY and working individuals in accordance with section 6408(d) of the omnibus budget reconciliation act of 1989. The administration, in accordance with federal law, may require certain eligible qualified ~~disabled~~ PERSONS WITH A DISABILITY and working individuals to contribute to the cost of the monthly premium.

Sec. 146. Section 36-2933, Arizona Revised Statutes, is amended to read:

36-2933. Eligibility determination; application; enrollment

A. A person who is seeking services pursuant to this article shall submit an application for eligibility for the system to the administration which shall review the completed application to determine if the person meets the residency and if applicable, the alienage requirements adopted pursuant to section 36-2932, subsection K and the eligibility criteria prescribed in section 36-2934.

B. The administration shall conduct a preadmission screening pursuant to section 36-2936 to determine if the applicant is eligible for services.

C. A person who is a resident of this state and, if not a citizen of the United States, who meets the alienage requirements of federal law and who meets the eligibility criteria prescribed in section 36-2934 and who is determined eligible for services pursuant to section 36-2936 shall be enrolled in the system, unless such person is enrolled in the Arizona health care cost containment system pursuant to article 1 of this chapter and only needs convalescent care as defined by the director by rule.

D. On enrollment in the system, the administration shall conduct post-eligibility treatment of income and resources of the member as prescribed in section 36-2932, subsection L.

E. The director may enter into an interagency agreement with the department under which the department may:

1. Determine whether all ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES as defined in section 36-551 who apply to the system meet the eligibility criteria prescribed in subsection A of this section.

2. Conduct preadmission screening pursuant to subsection B of this section on ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES as defined in section 36-551 to determine if the applicant is eligible for services.

3. Conduct post-eligibility treatment of income and resources pursuant to subsection D of this section for a member who has a developmental disability as defined in section 36-551.

Sec. 147. Section 36-2934, Arizona Revised Statutes, is amended to read:

36-2934. Eligibility criteria; qualifications for coverage; liquidation of assets

A. A person meets the eligibility criteria of this article and the section 1115 waiver if the person satisfies one of the following:

1. Is eligible pursuant to section 36-2901, paragraph 6, subdivision (a), item (i) or (ii) on the date of application for medical assistance under this article and meets the resource requirements prescribed by federal law.

2. Would be eligible for supplemental security income for the aged, blind or ~~disabled or aid to families with dependent children~~ PERSONS WITH DISABILITIES OR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES but is not receiving cash payment.

3. Would be eligible for supplemental security income for the aged, blind or ~~disabled~~ PERSONS WITH DISABILITIES or under section 1931(b) of the social security act except for the person's institutional status.

4. Is in a medical institution for a period of not less than thirty consecutive days and except for the person's income the person would be eligible for supplemental security income for the aged, blind or disabled or ~~aid to families with dependent children~~ TEMPORARY ASSISTANCE FOR NEEDY FAMILIES and the person's gross income before deductions does not exceed three hundred per cent of the supplemental security income benefit rate established by section 1611(b)(1) of the social security act.

5. Would be eligible for medical assistance under the state plan if the person was institutionalized and a determination has been made that except for the provision of home and community based services the person would require the level of care provided in a hospital, skilled nursing facility or intermediate care facility.

B. In addition to meeting the requirements of subsection A of this section, a person may not have, within the time specified in federal law before filing an application for eligibility pursuant to section 36-2933, transferred or assigned for less than fair consideration assets as defined by federal law for the purpose of meeting the eligibility criteria pursuant to this section. If a transfer or assignment occurred, the administration may deny eligibility for a period in accordance with federal law. Transfers that are permitted under federal law shall not serve to disqualify a person from eligibility for services pursuant to this article. This subsection also applies to persons who are eligible pursuant to section 36-2901, paragraph 6, subdivision (a) and who receive medical assistance under article 1 of this chapter.

C. In addition to meeting the requirements of subsection A, paragraph 3 of this section, the director may require that a person's net income shall not exceed a state income standard established by the director, which is less than three hundred per cent of the supplemental security income benefit rate established by section 1611 of the social security act.

D. Notwithstanding any other provision of this section, a person shall not receive services under this article who is not eligible pursuant to title XIX of the social security act or the section 1115 waiver.

E. The administration shall periodically review the eligibility pursuant to this section of each member in accordance with federal law.

F. The administration shall determine a person's eligibility pursuant to this section within the time periods required or allowed by federal law.

G. An applicant shall provide the administration with a statement in accordance with federal law containing at least the following information:

1. The amount of personal and real property in which the applicant has an interest.

2. All income that the applicant received during the period immediately before application.

3. Any assets as defined by federal law assigned or transferred by the applicant within the time prescribed by federal law immediately before filing the application for eligibility pursuant to section 36-2933.

4. Any further information the director by rule requires to determine eligibility.

H. A designated representative, as defined pursuant to rules adopted by the director, or a public employee who prepares and signs, or assists in preparing, an application for benefits under this article on behalf of an applicant is not civilly liable for good faith acts and omissions.

Sec. 148. Section 36-2939, Arizona Revised Statutes, is amended to read:

36-2939. Long-term care system services

A. The following services shall be provided by the program contractors to members determined to need institutional services pursuant to this article:

1. Nursing facility services other than services in an institution for tuberculosis or mental disease.

2. Notwithstanding any other law, behavioral health services if these services are not duplicative of long-term care services provided as of January 30, 1993 under this subsection and are authorized by the program contractor through the long-term care case management system. If the administration is the program contractor, the administration may authorize these services.

3. Hospice services. For the purposes of this paragraph, "hospice" means a program of palliative and supportive care for terminally ill members and their families or caregivers.

4. Case management services as provided in section 36-2938.

5. Health and medical services as provided in section 36-2907.

B. In addition to the services prescribed in subsection A of this section, the department, as a program contractor, shall provide the following services if appropriate to members who are defined as ~~developmentally~~

~~disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES pursuant to section 36-551 and are determined to need institutional services pursuant to this article:

1. Intermediate care facility services for a member who has a developmental disability as defined in section 36-551. For purposes of this article, such a facility shall meet all federally approved standards and may only include the Arizona training program facilities, a state owned and operated service center, state owned or operated community residential settings or existing licensed facilities operated by this state or under contract with the department on or before July 1, 1988.

2. Home and community based services that may be provided in a member's home or an alternative residential setting as prescribed in section 36-591 or other behavioral health alternative residential facilities licensed by the department of health services and approved by the director of the Arizona health care cost containment system administration and that may include:

(a) Home health, which means the provision of nursing services or home health aide services or medical supplies, equipment and appliances, which are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

(b) Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

(c) Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

(d) Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

(e) ~~Developmentally disabled~~ Day care FOR PERSONS WITH DISABILITIES, which means a service that provides planned care supervision and activities, personal care, activities of daily living skills training and habilitation services in a group setting during a portion of a continuous twenty-four hour period.

(f) Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

(g) Respite care, which means a service that provides short-term care and supervision available on a twenty-four hour basis.

(h) Transportation, which means a service that provides or assists in obtaining transportation for the member.

(i) Other services or licensed or certified settings approved by the director.

C. In addition to services prescribed in subsection A of this section, home and community based services may be provided in a member's home, in an adult foster care home as prescribed in section 36-401, in an assisted living home or assisted living center as defined in section 36-401 or in a level one or level two behavioral health alternative residential facility approved by the director by program contractors to all members who are not defined as ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES pursuant to section 36-551 and are determined to need institutional services pursuant to this article. Members residing in an assisted living center must be provided the choice of single occupancy. The director may also approve other licensed residential facilities as appropriate on a case by case basis for traumatic brain injured members. Home and community based services may include the following:

1. Home health, which means the provision of nursing services or home health aide services or medical supplies, equipment and appliances, which are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

2. Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

3. Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

4. Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

5. Adult day health, which means a service that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four hour period. Adult day health may also include preventive, therapeutic and restorative health related services that do not include behavioral health services.

6. Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

7. Respite care, which means a service that provides short-term care and supervision available on a twenty-four hour basis.

8. Transportation, which means a service that provides or assists in obtaining transportation for the member.

9. Home delivered meals, which means a service that provides for a nutritious meal containing at least one-third of the recommended dietary allowance for an individual and which is delivered to the member's residence.

10. Other services or licensed or certified settings approved by the director.

D. The amount of money expended by program contractors on home and community based services pursuant to subsection C of this section shall be limited by the director in accordance with the federal monies made available to this state for home and community based services pursuant to subsection C of this section. The director shall establish methods for the allocation of monies for home and community based services to program contractors and shall monitor expenditures on home and community based services by program contractors.

E. Notwithstanding subsections A, B, C and F of this section, no service may be provided that does not qualify for federal monies available under title XIX of the social security act or the section 1115 waiver.

F. In addition to services provided pursuant to subsections A, B and C of this section, the director may implement a demonstration project to provide home and community based services to special populations, including ~~disabled~~ persons WITH DISABILITIES who are eighteen years of age or younger, medically fragile, reside at home and would be eligible for supplemental security income for the aged, blind or disabled or the state supplemental payment program, except for the amount of their parent's income or resources. In implementing this project, the director may provide for parental contributions for the care of their child.

G. Subject to section 36-562, the administration by rule shall prescribe a deductible schedule for programs provided to members who are eligible pursuant to subsection B of this section, except that the administration shall implement a deductible based on family income. In determining deductible amounts and whether a family is required to have deductibles, the department shall use adjusted gross income. Families whose adjusted gross income is at least four hundred per cent and less than or equal to five hundred per cent of the federal poverty guidelines shall have a deductible of two per cent of adjusted gross income. Families whose adjusted gross income is more than five hundred per cent of adjusted gross income shall have a deductible of four per cent of adjusted gross income. Only families whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section may be required to have a deductible for services. For the purposes of this subsection, "deductible" means an amount a family, whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of

this section, pays for services, other than departmental case management and acute care services, before the department will pay for services other than departmental case management and acute care services.

Sec. 149. Section 36-2940, Arizona Revised Statutes, is amended to read:

36-2940. Program contractors; annual plan

A. The administration shall contract with the program contractors pursuant to this section or section 36-2944 using a contract as prescribed by the director. The department shall be a program contractor and provide services pursuant to this article either directly or through subcontracts with providers or through noncontracting providers to members who are defined as ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES pursuant to section 36-551 and who are enrolled with the program contractor by the system.

B. Each program contractor pursuant to this section shall annually submit to the director a comprehensive plan for the delivery of services to members. The plan shall include necessary information as determined by the director.

Sec. 150. Section 36-2944, Arizona Revised Statutes, is amended to read:

36-2944. Qualified plan health service contracts; proposals; administration; contract terms

A. For each county that has a population of four hundred thousand persons or less according to the most recent United States decennial census and that was not approved as a program contractor before January 1, 1994 or that officially states that it wishes to end its status as a program contractor, the director at least every five years shall prepare and issue a request for proposal and a proposed contract format to qualified group disability insurers, hospital and medical service corporations, health care services organizations and any other qualified public or private persons to be a program contractor and provide services pursuant to this article on a capitation rate basis to members who are enrolled with the program contractors by the system, who are not ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES as defined in section 36-551 and who are residents of the county at the time of application for the system.

B. The director may adopt rules regarding the request for proposal process which provide:

1. For the award of contracts by categories of members or services in order to secure the most financially advantageous proposals for the system.

2. That each qualified proposal shall be entered with separate categories for the distinct groups of members or services to be covered by the proposed contracts, as set forth in the request for proposal.

3. For the procurement of reinsurance for expenses incurred by any program contractor, any member or the system in providing services in excess of amounts specified by the director in any contract year.

4. For second round competitive proposals to request voluntary price reduction of proposals from only those proposals that have been tentatively selected for award, before the final award or rejection of proposals.

C. Contracts shall be awarded as otherwise provided by law, except that in no event may a contract be awarded to any program contractor which will cause the system to lose any federal monies to which it is otherwise entitled.

D. After contracts are awarded pursuant to this section, the director may negotiate with any successful proposal respondent for the expansion or contraction of services or service areas if there are unnecessary gaps or duplications in services or service areas.

E. Payments to program contractors pursuant to this section shall be made monthly or quarterly and may be subject to contract provisions requiring the retention of a specified percentage of the payment by the director, a reserve fund or other contract provisions by which adjustments to the payments are made based on utilization efficiency, including incentives for maintaining quality care and minimizing unnecessary inpatient services. Reserve funds withheld from contracts shall be distributed to program contractors who meet performance standards established by the director. Any reserve fund established pursuant to this subsection shall be established as a separate account within the Arizona long-term care system fund.

F. Payments made pursuant to this section shall begin after a member is enrolled in the system.

G. Each program contractor pursuant to this section shall submit an annual audited financial and programmatic report for the preceding fiscal year as required by the administration. The report shall include beginning and ending fund balances, revenues and expenditures including specific identification of administrative costs. The report shall include the number of members served by the program contractor and the cost incurred for various types of services provided to members in a format prescribed by the director.

H. The director shall require contract terms necessary to ensure adequate performance by the program contractor of the provisions of each contract executed pursuant to this section. Contract provisions required by the director shall include the maintenance of deposits, performance bonds, financial reserves or other financial security.

Sec. 151. Section 36-2959, Arizona Revised Statutes, is amended to read:

36-2959. Reimbursement rates; capitation rates; annual review

A. The department shall contract with an independent consulting firm for an annual study of the adequacy and appropriateness of title XIX reimbursement rates to service providers for the ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES program of both the Arizona long-term care system and the state only program. The consultant shall also include a recommendation for annual inflationary costs. Unless modified in response to

federal or state law, the independent consulting firm shall include, in its recommendation, costs arising from amendments to existing contracts. The department may require, and the department's contracted providers shall provide, financial data to the department in the format prescribed by the department to assist in the study. A complete study of reimbursement rates shall be completed no less than once every five years.

B. Capitation rate adjustments shall be limited to utilization of existing services and inflation unless policy changes, including creation or expansion of programs, have been approved by the legislature or are specifically required by federal law or court mandate.

C. The administration shall contract with an independent consulting firm for an annual study of the adequacy and appropriateness of title XIX reimbursement rates to service providers for the elderly and ~~physically disabled~~ PHYSICAL DISABILITY program of the Arizona long-term care system. The administration may require, and the administration's contracted providers shall provide, financial data to the administration in the format prescribed by the administration to assist in the study. A complete study of reimbursement rates shall be completed no less than once every five years. In determining the adequacy of the rates in the five year study, the consulting firm shall examine in detail the costs associated with the delivery of services, including programmatic, administrative and indirect costs in providing services in rural and urban Arizona.

D. The department and the administration shall provide each of their reports to the joint legislative budget committee and the administration by October 1 of each year.

E. The department shall include the results of the study in its yearly capitation rate request to the administration.

F. If results of the study are not completely incorporated into the capitation rate, the administration shall provide a report to the joint legislative budget committee within thirty days of setting the final capitation rate, including reasons for differences between the rate and the study.

Sec. 152. Section 36-2986, Arizona Revised Statutes, is amended to read:

36-2986. <u>Administration; powers and duties of director</u>

A. The director has full operational authority to adopt rules or to use the appropriate rules adopted for article 1 of this chapter to implement this article, including any of the following:

1. Contract administration and oversight of contractors.

2. Development of a complete system of accounts and controls for the program, including provisions designed to ensure that covered health and medical services provided through the system are not used unnecessarily or unreasonably, including inpatient behavioral health services provided in a hospital.

3. Establishment of peer review and utilization review functions for all contractors.

4. Development and management of a contractor payment system.

5. Establishment and management of a comprehensive system for assuring quality of care.

6. Establishment and management of a system to prevent fraud by members, contractors and health care providers.

7. Development of an outreach program. The administration shall coordinate with public and private entities to provide outreach services for children under this article. Priority shall be given to those families who are moving off welfare. Outreach activities shall include strategies to inform communities, including tribal communities, about the program, ensure a wide distribution of applications and provide training for other entities to assist with the application process.

8. Coordination of benefits provided under this article for any member. The director may require that contractors and noncontracting providers are responsible for the coordination of benefits for services provided under this article. Requirements for coordination of benefits by noncontracting providers under this section are limited to coordination with standard health insurance and disability insurance policies and similar programs for health coverage. The director may require members to assign to the administration rights to all types of medical benefits to which the person is entitled, including first party medical benefits under automobile insurance policies. The state has a right of subrogation against any other person or firm to enforce the assignment of medical benefits. The provisions of this paragraph are controlling over the provisions of any insurance policy that provides benefits to a member if the policy is inconsistent with this paragraph.

9. Development and management of an eligibility, enrollment and redetermination system including a process for quality control.

10. Establishment and maintenance of an encounter claims system that ensures that ninety per cent of the clean claims are paid within thirty days after receipt and ninety-nine per cent of the remaining clean claims are paid within ninety days after receipt by the administration or contractor unless an alternative payment schedule is agreed to by the contractor and the provider. For the purposes of this paragraph, "clean claims" has the same meaning prescribed in section 36-2904, subsection G.

11. Establishment of standards for the coordination of medical care and member transfers.

12. Requiring contractors to submit encounter data in a form specified by the director.

13. Assessing civil penalties for improper billing as prescribed in section 36-2903.01, subsection K.

B. Notwithstanding any other law, if Congress amends title XXI of the social security act and the administration is required to make conforming

1 changes to rules adopted pursuant to this article, the administration shall
2 request a hearing with the joint health committee of reference for review of
3 the proposed rule changes.
4 C. The director may subcontract distinct administrative functions to
5 one or more persons who may be contractors within the system.
6 D. The director shall require as a condition of a contract with any
7 contractor that all records relating to contract compliance are available for
8 inspection by the administration and that these records be maintained by the
9 contractor for five years. The director shall also require that these
10 records are available by a contractor on request of the secretary of the
11 United States department of health and human services.
12 E. Subject to existing law relating to privilege and protection, the
13 director shall prescribe by rule the types of information that are
14 confidential and circumstances under which this information may be used or
15 released, including requirements for physician-patient confidentiality.
16 Notwithstanding any other law, these rules shall be designed to provide for
17 the exchange of necessary information for the purposes of eligibility
18 determination under this article. Notwithstanding any other law, a member's
19 medical record shall be released without the member's consent in situations
20 of suspected cases of fraud or abuse relating to the system to an officer of
21 this state's certified Arizona health care cost containment system fraud
22 control unit who has submitted a written request for the medical record.
23 F. The director shall provide for the transition of members between
24 contractors and noncontracting providers and the transfer of members who have
25 been determined eligible from hospitals that do not have contracts to care
26 for these persons.
27 G. To the extent that services are furnished pursuant to this article,
28 a contractor is not subject to title 20 unless the contractor is a qualifying
29 plan and has elected to provide services pursuant to this article.
30 H. As a condition of a contract, the director shall require contract
31 terms that are necessary to ensure adequate performance by the contractor.
32 Contract provisions required by the director include the maintenance of
33 deposits, performance bonds, financial reserves or other financial security.
34 The director may waive requirements for the posting of bonds or security for
35 contractors who have posted other security, equal to or greater than that
36 required by the administration, with a state agency for the performance of
37 health service contracts if monies would be available from that security for
38 the system on default by the contractor.
39 I. The director shall establish solvency requirements in contract that
40 may include withholding or forfeiture of payments to be made to a contractor
41 by the administration for the failure of the contractor to comply with a
42 provision of the contract with the administration. The director may also
43 require contract terms allowing the administration to operate a contractor
44 directly under circumstances specified in the contract. The administration
45 shall operate the contractor only as long as it is necessary to assure

delivery of uninterrupted care to members enrolled with the contractor and to accomplish the orderly transition of members to other contractors or until the contractor reorganizes or otherwise corrects the contract performance failure. The administration shall not operate a contractor unless, before that action, the administration delivers notice to the contractor providing an opportunity for a hearing in accordance with procedures established by the director. Notwithstanding the provisions of a contract, if the administration finds that the public health, safety or welfare requires emergency action, it may operate as the contractor on notice to the contractor and pending an administrative hearing, which it shall promptly institute.

J. For the sole purpose of matters concerning and directly related to this article, the administration is exempt from section 41-192.

K. The director may withhold payments to a noncontracting provider if the noncontracting provider does not comply with this article or adopted rules that relate to the specific services rendered and billed to the administration.

L. The director shall:

1. Prescribe uniform forms to be used by all contractors and furnish uniform forms and procedures, including methods of identification of members. The rules shall include requirements that an applicant personally complete or assist in the completion of eligibility application forms, except in situations in which the person ~~is disabled~~ HAS A DISABILITY.

2. By rule, establish a grievance and appeal procedure that conforms with the process and the time frames specified in article 1 of this chapter. If the program is suspended or terminated pursuant to section 36-2985, an applicant or member is not entitled to contest the denial, suspension or termination of eligibility for the program.

3. Apply for and accept federal monies available under title XXI of the social security act. Available state monies appropriated to the administration for the operation of the program shall be used as matching monies to secure federal monies pursuant to this subsection.

M. The administration is entitled to all rights provided to the administration for liens and release of claims as specified in sections 36-2915 and 36-2916 and shall coordinate benefits pursuant to section 36-2903, subsection F and be a payor of last resort for persons who are eligible pursuant to this article.

N. The director shall follow the same procedures for review committees, immunity and confidentiality that are prescribed in article 1 of this chapter.

Sec. 153. Section 36-3205, Arizona Revised Statutes, is amended to read:

36-3205. Health care providers; immunity from liability; conditions

A. A health care provider who makes good faith health care decisions in reliance on the provisions of an apparently genuine health care directive or the direction of a surrogate is immune from criminal and civil liability and is not subject to professional discipline for that reliance.

B. Health care provider acts and refusals to act made in reliance on the provisions of a health care directive or directions of a surrogate are presumed to be made in good faith. A court shall base a finding of an absence of good faith on information known to the provider and shall enter its finding only after it has made a determination of bad faith in written findings of fact based on clear and convincing evidence of improper motive. For the purposes of this subsection, "good faith" includes all health care decisions, acts and refusals to act based on a health care provider's reasonable belief of a patient's desires, a patient's best interest or the directives of a patient's surrogate if these decisions, acts or refusals to act are not contrary to the patient's express written directions in a valid health care directive.

C. A health care provider is not subject to criminal or civil liability or professional discipline for any of the following:

1. Failing to comply with a decision or a direction that violates the provider's conscience if the provider promptly makes known the provider's unwillingness and promptly transfers the responsibility for the patient's care to another provider who is willing to act in accordance with the agent's direction.

2. Failing to consult a ~~disabled~~ PATIENT WITH A DISABILITY or incapacitated patient's surrogate if the surrogate cannot be contacted after the health care provider has made a reasonable effort to do so or if an emergency situation does not provide the health care provider with sufficient time to locate and consult with the surrogate.

3. Relying on a court order concerning a patient.

4. A guardian's failure to comply with section 14-5303, subsection B relating to the requirement that the petition include a statement that the authority granted to the guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid.

D. This section does not relieve a health care provider from civil or criminal liability or prevent a provider from being subjected to professional disciplinary action for the provider's negligent treatment of a patient if the negligence is unrelated to the provider's reliance on a health care directive, directions from a surrogate or the recommendations of an institutional ethics committee pursuant to section 36-3231.

Sec. 154. Section 36-3251, Arizona Revised Statutes, is amended to read:

36-3251. Prehospital medical care directives; form; effect; definition

A. Notwithstanding any law or a health care directive to the contrary, a person may execute a prehospital medical care directive that, in the event of cardiac or respiratory arrest, directs the withholding of cardiopulmonary resuscitation by emergency medical system and hospital emergency department personnel. For the purposes of this article, "cardiopulmonary resuscitation" includes cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of advanced cardiac life support drugs and related emergency medical procedures. Authorization for the withholding of cardiopulmonary resuscitation does not include the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

B. A prehospital medical care directive shall be printed on an orange background and may be used in either letter or wallet size. The directive shall be in the following form:

Prehospital Medical Care Directive

(side one)

In the event of cardiac or respiratory arrest, I refuse any resuscitation measures including cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of advanced cardiac life support drugs and related emergency medical procedures.

Patient: _____ date: _____

(Signature or mark)

Attach recent photograph here or provide all of the following information below:

Date of birth _____ sex ____

Eye color _____ hair color _____ race _____

Hospice program (if any) _____

Name and telephone number of patient's physician _____

_____

(side two)

I have explained this form and its consequences to the signer and obtained assurance that the signer understands that death may result from any refused care listed above.

_____ date _____

(Licensed health care provider)

I was present when this was signed (or marked). The patient then appeared to be of sound mind and free from duress.

_____ date _____

(Witness)

C. A person who has a valid prehospital medical care directive pursuant to this section may wear an identifying bracelet on either the wrist or the ankle. The bracelet shall be substantially similar to identification bracelets worn in hospitals. The bracelet shall be on an orange background and state the following in bold type:

Do Not Resuscitate

Patient: _____

Patient's physician: _____

D. If the person has designated an agent to make health care decisions under section 36-3221 or has been appointed a guardian for health care decisions pursuant to title 14, that agent or guardian shall sign if the person is no longer competent to do so.

E. A prehospital medical care directive is effective until it is revoked or superseded by a new document.

F. Emergency medical system and hospital emergency department personnel who make a good faith effort to identify the patient and who rely on an apparently genuine directive or a photocopy of a directive on orange paper are immune from liability to the same extent and under the same conditions as prescribed in section 36-3205. If a person has any doubt as to the validity of a directive or the medical situation, that person shall proceed with resuscitative efforts as otherwise required by law. Emergency medical system personnel are not required to accept or interpret medical care directives that do not meet the requirements of this section.

G. In the absence of a physician, a person without vital signs who is not resuscitated pursuant to a prehospital medical care directive may be pronounced dead by any peace officer of this state, a professional nurse licensed pursuant to title 32, chapter 15 or an emergency medical technician certified pursuant to this title.

H. This section does not apply to situations involving mass casualties or to medical emergencies involving children and ~~disabled~~ adults WITH DISABILITIES in public or private schools that are not licensed health care institutions as defined in section 36-401.

I. After being notified of a death by emergency medical system personnel, the person's physician or the county medical examiner is then responsible for signing the death certificate.

J. The office of emergency medical services in the department of health services shall print prehospital medical care directive forms and make them available to the public. The department may charge a fee that covers the department's costs to prepare the form. The department and its employees are immune from civil liability for issuing prehospital medical care directive forms that meet the requirements of this section. A person may use

a form that is not prepared by the department of health services if that form meets the requirements of this section. If an organization distributes a prehospital medical care directive form that meets the requirements of this section, that organization and its employees are also immune from civil liability.

K. Any prehospital medical care directive prepared before April 24, 1994 is valid if it was valid at the time it was prepared.

L. For the purposes of this section, "emergency medical system personnel" includes emergency medical technicians at all levels who are certified by the department of health services and medical personnel who are licensed by this state and who are operating outside of an acute care hospital under the direction of an emergency medical system agency recognized by the department of health services.

Sec. 155. Section 36-3405, Arizona Revised Statutes, is amended to read:

36-3405. Division annual report; monthly report

A. By January 1 of each year, the director shall submit a financial and programmatic report for the preceding fiscal year to the governor, the speaker of the house of representatives and the president of the senate.

B. The report required pursuant to subsection A OF THIS SECTION shall include revenues and expenditures for the division and total revenues and expenditures including specific identification of administrative costs for each behavioral health program by the following categories:

1. The seriously mentally ill.
2. Alcohol and drug abuse.
~~3. Severely emotionally handicapped children.~~
3. CHILDREN WITH SEVERE EMOTIONAL DISABILITIES.
4. Domestic violence.
5. The Arizona state hospital.

C. The report required pursuant to subsection A OF THIS SECTION shall include the number of clients served by each behavioral health service.

D. The director shall provide a monthly report to the governor, the speaker of the house of representatives and the president of the senate which shall, by regional behavioral health authority, separately report title XIX and nontitle XIX categories and shall include for each category the number of persons served, the units of service and the amount of funding provided for client services and the amount provided for regional behavioral health authority administration and case management expenses.

Sec. 156. Section 37-525, Arizona Revised Statutes, is amended to read:

37-525. Other land funds; composition; use

A. After any appropriation pursuant to section 37-527, the legislative, executive and judicial public buildings land fund, the penitentiary land fund, the Arizona state hospital land fund, the state charitable, penal and reformatory institutions land fund, the schools and

asylum for the deaf, dumb and blind land fund, the miners' hospital for ~~disabled~~ miners WITH DISABILITIES land fund and the military institutes land fund shall separately consist of:

1. The proceeds of all lands granted to this state by the United States for the respective purposes named.

2. All property donated by individuals for like purposes, unless the terms of the donation otherwise provide.

3. The sale of timber, mineral, gravel or other natural products or property from lands granted or donated for such purposes.

B. The funds shall be and remain perpetual funds for the benefit and support of institutions corresponding to the purposes for which the funds are established, except as otherwise provided in the enabling act and section 37-295 and distributions from the funds pursuant to article X, section 7, Constitution of Arizona together with the monies derived from the rental of the lands and property shall be used. Monies in the state charitable, penal and reformatory institutions land fund are subject to legislative appropriation.

Sec. 157. Section 38-492, Arizona Revised Statutes, is amended to read:

38-492. Preferences

A. A veteran of the armed forces of the United States who is separated from the armed forces under honorable conditions following more than six months of active duty and who takes an examination for employment by this state or any political subdivision of this state under a merit system of employment as provided by section 38-491, in the determination of the veteran's final rating on the examination, shall be given a preference of five points over persons other than veterans. The preference shall be added to the grade earned by the veteran, but only if the veteran earns a passing grade without preference. Any veteran who is entitled under 10 United States Code chapter 1223 to retired pay for non-regular service or, but for age, would be entitled under that chapter to retired pay for non-regular service and who takes an examination for employment by any political subdivision of this state under a merit system of employment as provided by section 38-491, in the determination of the veteran's final rating on the examination, shall be given a preference of five points over persons other than veterans. The preference shall be added to the grade earned by the veteran, but only if the veteran earns a passing grade without preference.

B. A ~~disabled~~ person WITH A DISABILITY who takes an examination for employment by this state or any political subdivision of this state under a merit system of employment, in the determination of the ~~disabled person's~~ PERSON'S WITH A DISABILITY final rating on such examination, shall be given a preference of five points. The preference shall be added to the grade earned by the ~~disabled~~ person WITH A DISABILITY but only if such person earns a passing grade without preference. For the purposes of this subsection, "~~disabled~~ person WITH A DISABILITY" means an individual who has a physical or

mental impairment that substantially limits one or more major life activities of the individual or who has a record of such an impairment or is regarded as having such an impairment.

C. A person qualified for a preference pursuant to subsections A and B of this section shall be given a ten point preference.

D. A spouse or surviving spouse of any of the following, otherwise qualified pursuant to subsection A of this section, shall be given a five point preference as if the spouse or surviving spouse were an eligible veteran pursuant to subsection A of this section:

1. Any veteran who died of a service-connected disability.

2. Any member of the armed forces who is serving on active duty and who, at the time of application, is listed by the secretary of defense of the United States in any of the following categories for not less than ninety days:

(a) Missing in action.

(b) Captured in the line of duty by a hostile force.

(c) Forcibly detained or interned in the line of duty by a foreign government or power.

3. A person who has a total, permanent disability resulting from a service-connected disability or any person who died while the disability was in existence.

E. An honorably separated veteran who served on active duty in the armed forces at any time and who has a service-connected disability or is receiving compensation or disability retirement benefits under laws administered by the United States department of veterans affairs, army, navy, air force, coast guard or United States public health service shall be given a ten point preference pursuant to this section.

F. If a person is eligible for a preference pursuant to this section and the person applies for employment with this state or any political subdivision of this state under a merit system of employment as provided by section 38-491 in which applicants are assessed and evaluated but scores are not given, preference shall be given by granting applicable preference codes to qualified applicants.

G. No person eligible for a preference pursuant to this section shall be allowed more than a ten point preference.

H. If a department, division or agency of this state or any political subdivision of this state is operated under a merit system prescribed by the federal government or a department, division or agency of the federal government, the provisions of that system, including preferences, prevail.

Sec. 158. Section 38-651.01, Arizona Revised Statutes, is amended to read:

38-651.01. Group health and accident coverage for retired public employees and elected officials and their dependents

A. The department of administration, by rule, shall adopt standards to establish group health and accident coverage for former employees who worked for the state of Arizona and who opt on retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for the state of Arizona, or ~~disabled~~ WITH A DISABILITY, and receiving either income from a retirement program of this state or long-term disability income benefits pursuant to section 38-651.03 or chapter 5, article 2.1 of this title and their dependents and to establish eligibility for retired or ~~disabled~~ state employees WITH A DISABILITY to participate in the coverage. The department of administration may adopt rules that provide that if a retired or ~~disabled~~ insured PERSON WITH A DISABILITY dies before an insured surviving dependent, the insured surviving dependent is entitled to extended coverage at group rates if the insured surviving dependent elects to continue in the coverage within six months of the retired or ~~disabled insured's~~ INSURED PERSON'S WITH A DISABILITY death and the insured surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On notification of the retired or ~~disabled~~ WITH A DISABILITY insured's death, the department of administration shall immediately notify an insured surviving dependent of the provisions of this section. The department of administration may enter into agreements with ~~disabled~~ former state employees WITH A DISABILITY and their dependents who elect to obtain the coverage provided by this section. The agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage. The department of administration may adopt rules that provide that on the death of a state employee who at the time of death was eligible for normal retirement pursuant to section 38-757 under the Arizona state retirement system, the insured surviving spouse and eligible dependent children are entitled to continue coverage under group rates provided that the deceased insured state employee, spouse and dependent children were insured at the time of the employee's death. The insured surviving spouse shall be charged an amount sufficient to pay the full premium for the coverage.

B. The department of administration, by rule, may adopt standards to establish group health and accident coverage for former elected officials of this state or its political subdivisions and their dependents and to establish eligibility for former elected officials to participate in the coverage. Qualifications for eligibility shall include that the former elected official has at least five years of credited service in the elected officials' retirement plan pursuant to chapter 5 of this title, had been covered under a group health or group health and accident plan while serving

as an elected official and had been serving as an elected official on or after January 1, 1983. The department of administration may adopt rules that provide that on the death of an elected official or insured former elected official, the insured surviving spouse is entitled to coverage at group rates provided that the deceased insured former elected official met or would have met the qualifications for eligibility pursuant to this subsection or that the deceased elected official would have met the qualifications for eligibility had the deceased not been in office at the time of death. Except as provided in subsection J of this section, the insured former elected official or the insured surviving spouse shall be charged amounts that are sufficient to pay for the premium and state administrative expense of providing coverage. Notwithstanding subsection J of this section, the standards shall provide that all or any portion of the former state employees or former elected officials or their dependents shall be grouped with officers and employees of the state and its departments and agencies or their dependents as necessary to obtain health and accident coverage at favorable rates.

C. The Arizona state retirement system board may enter into agreements with retired and ~~disabled~~ state employee members of the system and plan WITH A DISABILITY and retired members of the elected officials' defined contribution retirement system established pursuant to chapter 5, article 3.1 of this title who elect to obtain the coverage provided pursuant to subsection A of this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing coverage.

D. Retired state employee or ~~disabled~~ state employee members WITH A DISABILITY of the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to chapter 5, article 3.1 of this title, the corrections officer retirement plan or the optional retirement programs authorized pursuant to section 15-1628 who opt on retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for the state of Arizona and their dependents and who are receiving benefits from the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to chapter 5, article 3.1 of this title, the corrections officer retirement plan or the optional retirement programs authorized pursuant to section 15-1628 may participate in group health and accident coverage provided pursuant to this section. The department of administration shall adopt rules that are necessary for the implementation of this subsection.

E. The board of trustees of the public safety personnel retirement system may enter into agreements with retired state employee members and

their dependents who elect to obtain the coverage provided pursuant to this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing coverage.

F. The board of trustees of the public safety personnel retirement system may enter into agreements with retired judges and retired elected officials and their dependents who elect to obtain the coverage provided pursuant to this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing coverage.

G. The board of trustees of the public safety personnel retirement system may contract with an insurance carrier and adopt standards to establish a group health and accident insurance coverage program for retired members of the public safety personnel retirement system, their dependents and their spouses. Any members or spouses who elect to obtain the group health and accident coverage provided under this subsection shall agree to a deduction from their monthly retirement benefits of an amount sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing coverage.

H. A county board of supervisors may enter into agreements to establish group health and accident coverage for retired or ~~disabled~~ county employees WITH A DISABILITY and their dependents who elect to obtain the coverage provided pursuant to section 11-263, subsection B. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing for the coverage.

I. Nonmedicare eligible retirees who live in this state, who enroll in a qualifying plan under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option to enroll with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.

2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the retiree to the designated office of the qualifying health maintenance organization or the facility referred by the

health maintenance organization are the responsibility of and at the expense of the retiree.

3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the retiree to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the retiree living outside the area of the qualifying health maintenance organization.

J. Public funds shall not be expended to pay all or any part of the premium of insurance pursuant to this section except for monies authorized to be paid for any insured from the retirement plan from which the insured is receiving benefits.

K. A retired member of the elected officials' defined contribution retirement system established pursuant to chapter 5, article 3.1 of this title may elect to obtain the coverage provided pursuant to subsection A of this section, but shall pay the premium for the coverage selected and is not eligible for benefits pursuant to section 38-783 or 38-817.

Sec. 159. Section 38-712, Arizona Revised Statutes, is amended to read:

38-712. <u>ASRS purpose; trust fund</u>

A. The primary intent of ASRS is to:

1. Provide an incentive in the recruitment and retention of employees of the highest possible quality.

2. Contribute toward providing a total compensation package that is generally equivalent to comparable employment in other public and private organizations in this state.

3. Provide a retirement system that encourages employees to remain in service for periods of time that will provide public employers with the full benefit of the training and experience gained by the employees.

4. Provide an orderly method of promoting and maintaining a high level of service to the public through an equitable separation procedure that is available to employees at retirement or on becoming ~~disabled~~ A PERSON WITH A DISABILITY.

5. Provide a base retirement benefit that is less than one hundred per cent of a member's post-retirement income requirements, recognizing that personal savings and social security also contribute toward total post-retirement income requirements.

B. ASRS is a defined benefit plan as described in section 414(j) of the internal revenue code. As provided in section 38-771, some eligible members of ASRS are entitled to benefits under the defined contribution program administered by ASRS. With respect to the portion of ASRS that provides benefits to members entitled to benefits under the defined contribution program that are derived from employer contributions and that are based partly on the balance of the separate account of a member, ASRS is a plan described in section 414(k) of the internal revenue code and shall

comply with all applicable provisions of section 414(k) of the internal revenue code.

C. A public employee's retirement trust fund is established to afford an optimum degree of security to the members of ASRS. All monies and other assets of ASRS are a part of the trust fund. All accounts, depositories and funds of ASRS are included within the trust fund.

D. Except as provided in section 38-738, an employer does not have a beneficial interest in any asset of the trust fund, and no part of the trust fund may ever revert to or be paid, directly or indirectly, to an employer. All liabilities with respect to members and their beneficiaries shall be satisfied before any part of the corpus or income of the trust fund is used for or diverted to purposes other than for the exclusive benefit of members or their beneficiaries.

Sec. 160. Section 38-745, Arizona Revised Statutes, is amended to read:

38-745. Credit for military service

A. An active member of ASRS or a member who is receiving benefits pursuant to section 38-797.07 may purchase up to sixty months of credited service in ASRS for active military service if all of the following apply:

1. The member was honorably separated from the military service.

2. The member submits a copy of the member's military service record (DD-214) or its equivalent with the member's application for military service credit.

3. A member has at least five years of credited service in ASRS.

4. Except as provided by 10 United States Code section 12736, the member is not yet eligible for a military retirement benefit.

B. The cost to purchase military service credit is an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.

C. An active member of ASRS who is called to active military service may receive credited service for not more than sixty months of active military service, except as provided by the uniformed services employment and reemployment rights act (38 United States Code section 4312(c)). The member's employer shall make employer contributions and member contributions for the member if the member meets the following requirements:

1. Was an active member of ASRS on the day before the member began active military service.

2. Is a member of the Arizona national guard or is a member of the reserves of any military establishment of the United States.

3. Volunteers or is ordered into active military service of the United States as part of a military call-up.

4. One of the following occurs:

(a) Is honorably separated from active military service and returns to employment for the same employer from which the member left for active

military service within ninety days after the date active military service is terminated.

(b) Is hospitalized as a result of military service and returns to employment for the same employer from which the member left for active military service within ninety days after release from service related hospitalization.

(c) Becomes ~~disabled~~ A PERSON WITH A DISABILITY as a result of or during the military service and is unable to return to the same employer.

(d) Dies as a result of or during the military service.

D. Contributions made pursuant to subsection C of this section shall be for the period of time beginning on the date the member began active military service and ending on the later of one of the following dates:

1. The date the member returns to employment or the date the member should have returned to employment pursuant to 20 Code of Federal Regulations section 1002.115, whichever date is earlier.

2. The date the member is released from service related hospitalization or two years after initiation of service related hospitalization, whichever date is earlier.

3. One year after the date of disability.

4. The date the member dies as a result of or during active military service.

E. Notwithstanding any other law, on payment of the contributions made pursuant to subsection C of this section, the member shall be credited with service for retirement purposes for the period of time of active military service of not more than sixty months.

F. The employer shall make contributions pursuant to subsection C of this section as follows:

1. Contributions shall be based on the compensation that a member would have received but for the period that the member was ordered into active military service.

2. If the employer cannot reasonably determine a member's rate of compensation for the period that the member was ordered into active military service, the employer shall make contributions based on the member's average rate of compensation during the twelve-month period immediately preceding the period of active military service.

3. If a member has been employed less than twelve months before being ordered into active military service, the employer shall make contributions based on the employment period immediately preceding the period of active military service.

4. Employer contributions shall be made in a lump sum and without penalty when the member returns to employment, when it is determined that the member is unable to return to employment because of a disability as a result of or that occurred during military service or on receipt of the member's death certificate. If a member suffers a service related death, the employer shall make the employer and member contributions up to and including the date

of the member's death. Death benefits shall be calculated as prescribed by law.

G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

H. Notwithstanding any other law, the member is not required to reimburse the member's employer or ASRS for any contribution made pursuant to subsection C of this section.

I. In addition to, but not in duplication of, the provisions of subsection C of this section, contributions, benefits and credited service provided pursuant to this section shall be provided in accordance with section 414(u) of the internal revenue code.

J. A member who does not currently perform services for an employer by reason of qualified military service, as that term is defined in section 414(u) of the internal revenue code, and who is receiving differential wage payments, as that term is defined in section 3401(h)(2) of the internal revenue code, shall not be considered as having a severance from employment for all purposes under ASRS during the period the differential wages are being paid by the employer to the employee.

Sec. 161. Section 38-755, Arizona Revised Statutes, is amended to read:

38-755. <u>Information as to member's status; beneficiary designation; spousal consent; confidentiality</u>

A. Subject to rules prescribed by the board, on application of a member, the board shall furnish information concerning the member's status. In addition, the board shall furnish to each member an account, that may be electronic or online, showing the status of the member's account, including the name of the member's beneficiary as last listed with the board.

B. The member may change the member's beneficiary at any time in a manner established by ASRS.

C. A member who is married shall name and maintain the member's current spouse as a beneficiary to receive at least fifty per cent of the member's account, unless naming or maintaining the current spouse as a beneficiary violates another law, an existing contract or a court order. The member's current spouse may consent to a waiver of this requirement pursuant to section 38-776.

D. In order to protect a member's identity from fraud, abuse, theft or civil or criminal activity, information about a member is not subject to inspection pursuant to title 39, chapter 1, article 2, except that the following information about a member is subject to inspection:

1. The member's name.

2. Whether the member is an active member as defined in section 38-711, an inactive member as defined in section 38-711 or a retired member as defined in section 38-711.

3. The member's current or most recent employer.

4. For a retired member, the average monthly compensation, as defined in section 38-711, used to calculate the member's retirement benefit.

5. The credited service as defined in section 38-711 on account for an active or inactive member or the credited service used to calculate the retirement benefit for a retired member.

6. The gross pension amount actually paid to a retired member.

7. The most recent retirement date.

8. The current account balance for an active or inactive member.

9. The gross long-term disability program benefit actually paid to a ~~disabled~~ member WITH A DISABILITY pursuant to article 2.1 of this chapter.

10. The amount paid to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

11. The amount of credited service purchased pursuant to section 38-743, 38-744 or 38-745.

E. ASRS shall not permit any unredacted record to be inspected that contains a member's social security number, bank account information, address, telephone number, e-mail address, medical records, health insurance information, beneficiary or survivor information or disability information or any information that is protected by any federal or state law.

Sec. 162. Section 38-765, Arizona Revised Statutes, is amended to read:

38-765. Errors; benefit recomputation

If any change or error in the records results in any member or beneficiary receiving from ASRS more or less than the member or beneficiary would have been entitled to receive if the records had been correct, ASRS shall correct the error and as far as practicable shall adjust the payments in a manner so that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled is paid. ASRS shall correct any change or error and shall pay the appropriate monies to a member or beneficiary or shall recover monies from the member or beneficiary if the member or beneficiary is overpaid. ASRS shall recover monies by reducing any benefit otherwise payable by ASRS or the LTD program established by article 2.1 of this chapter to an active, inactive, ~~disabled~~ PERSON WITH A DISABILITY or retired member, survivor, contingent annuitant, beneficiary or alternate payee.

Sec. 163. Section 38-769, Arizona Revised Statutes, is amended to read:

38-769. Maximum retirement benefits; termination; definitions

A. Notwithstanding any other provision of this article, except as provided in subsection C of this section, the employer provided portion of a member's annual benefit payable in the form of a straight life annuity, at any time within a limitation year, shall not exceed one hundred sixty thousand dollars or a larger amount that is effective as of January 1 of each calendar year, is prescribed by the board and is due to any cost of living adjustment announced by the United States secretary of the treasury pursuant

to section 415(d) of the internal revenue code. The board shall increase the amount pursuant to this subsection as of the effective date of the increase as prescribed by the United States secretary of the treasury. Benefit increases provided in this section resulting from the increase in the limitations of section 415(b) of the internal revenue code as amended by the economic growth and tax relief reconciliation act of 2001 shall be provided to all current and former members who have benefits that are limited by section 415(b) of the internal revenue code and who have an accrued benefit under ASRS immediately before July 1, 2001, other than an accrued benefit resulting from a benefit increase solely as a result of the increases provided by this section resulting from the increase in the limitations of section 415(b) of the internal revenue code as amended by the economic growth and tax relief reconciliation act of 2001.

B. Notwithstanding the limitations of subsection A of this section, the benefits payable to a member are deemed not to exceed the limitations determined under subsection A of this section if the retirement benefits payable to the member under this article do not exceed ten thousand dollars for the limitation year and if an employer has not at any time maintained a defined contribution plan in which the member has participated.

C. The limitations determined under subsection A of this section are subject to the following adjustments:

1. If a member has less than ten years of membership in ASRS, the maximum dollar limitation determined under subsection A of this section shall be multiplied by a fraction, the numerator of which is the number of years, or partial years, of membership in ASRS and the denominator of which is ten. The reduction provided in this paragraph also applies to the ten thousand dollar floor limitation provided in subsection B of this section, except that the reduction applies to years of service with an employer rather than to years of membership in ASRS. The reduction in this paragraph does not reduce the limitations determined under subsection A of this section to an amount less than one-tenth of the limitations as determined without regard to this paragraph.

2. If the member's benefit under ASRS commences before the member reaches sixty-two years of age, the benefit will be limited to:

(a) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for determining actuarial equivalence for early retirement purposes.

(ii) A five per cent interest rate assumption and the applicable mortality table.

(b) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS does not have an immediately commencing straight life annuity payable at both age sixty-two and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using a five per cent interest rate assumption and the applicable mortality table and expressing the member's age based on completed calendar months as of the annuity start date.

(c) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS has an immediately commencing straight life annuity payable at both age sixty-two and the age of benefit commencement, the lesser of:

(i) The adjusted dollar limitation determined in accordance with subdivision (b) of this paragraph, determined without applying the limitations of section 415 of the internal revenue code.

(ii) The product of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under ASRS at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under ASRS at age sixty-two, determined without applying the limitations of section 415 of the internal revenue code.

3. If the retirement benefit under ASRS commences after the member reaches sixty-five years of age, the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section on that benefit is increased to:

(a) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) as adjusted under section 415(d) of the internal revenue code, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for determining actuarial equivalence for delayed retirement purposes.

(ii) A five per cent interest rate assumption and the applicable mortality table.

(b) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS does not have an immediately commencing straight life annuity payable at both age sixty-five and the age of benefit

commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using a five per cent interest rate assumption and the applicable mortality table and expressing the member's age based on completed calendar months as of the annuity starting date.

(c) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS has an immediately commencing straight life annuity payable at both age sixty-five and the age of benefit commencement, the lesser of:

(i) The adjusted dollar limitation determined in accordance with subdivision (b) of this paragraph, determined without applying the limitations of section 415 of the internal revenue code.

(ii) The product of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under ASRS at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under ASRS at age sixty-five, determined without applying the limitations of section 415 of the internal revenue code.

4. For purposes of applying the limits of section 415 of the internal revenue code, a retirement benefit that is payable in any form other than a straight life annuity and that is not subject to section 417(e)(3) of the internal revenue code must be adjusted to an actuarially equivalent straight life annuity that equals either:

(a) For limitation years beginning on or after July 1, 2007, the greater of the annual amount of the straight life annuity, if any, payable under ASRS at the same annuity starting date, and the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using an interest rate of five per cent and the applicable mortality table under section 417(e)(3) of the internal revenue code.

(b) For limitation years beginning before July 1, 2007, the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five per cent interest rate assumption and the applicable mortality table.

5. For the purpose of applying the limits of section 415 of the internal revenue code, a retirement benefit that is payable in any form other

than a straight life annuity to which section 417(e)(3) of the internal revenue code would apply if that section of the internal revenue code were applicable to ASRS must be adjusted to an actuarially equivalent straight life annuity that equals:

(a) If the annuity starting date is in a plan year beginning on or after July 1, 2006, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five and one-half per cent interest rate assumption and the applicable mortality table.

(iii) The applicable interest rate under section 417(e)(3) of the internal revenue code and the applicable mortality table, divided by 1.05.

(b) If the annuity starting date is in a plan year beginning in July 1, 2004 or July 1, 2005, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit payable, using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five and one-half per cent interest assumption and the applicable mortality table.

(c) If the annuity starting date is on or after July 1, 2004 and before December 31, 2004, and ASRS applies the transition rule in section 101(d)(3) of the pension funding equity act of 2005 in lieu of the rule in subdivision (b) of this paragraph, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, determined in accordance with internal revenue service notice 2004-78.

6. When calculating the limitations of paragraph 4 or 5 of this subsection, the portion of any joint or survivor annuity that constitutes a qualified joint and survivor annuity as defined in section 417 of the internal revenue code shall be disregarded.

D. Subsection C, paragraphs 1 and 2 of this section do not apply to income received from ASRS as a pension, annuity or similar allowance as a result of the recipient ~~becoming disabled~~ DEVELOPING A DISABILITY by personal injury or sickness or to amounts received from ASRS by beneficiaries, survivors or the estate of a member as a result of the death of the member.

E. Notwithstanding any other provision of this section, the annual benefit payable under this article may be reduced to the extent necessary, as determined by the board, to prevent disqualification of ASRS under section 415 of the internal revenue code that imposes additional limitations on the

annual benefits payable to members who also may be participating in another tax qualified pension or savings plan of this state. An employer shall not provide employee retirement or deferred benefits if the benefits authorized by this section and as required by federal law result in the failure of ASRS to meet federal qualification standards as applied to public pension plans. The board shall advise affected members of any additional information concerning their annual benefits required by this subsection. All benefits payable pursuant to this subsection shall comply with the limitations of benefits contained in section 415 of the internal revenue code and the final treasury regulations issued under that section. Notwithstanding any provision of this article to the contrary, if the annual benefits within the meaning of section 415 of the internal revenue code for any member exceed the limits of section 415(b) of the internal revenue code and this section, ASRS may only correct the excess pursuant to the employee plans compliance resolution system prescribed in internal revenue service revenue procedure 2008-50 or any future guidance by the internal revenue service, including the preamble of the final treasury regulations issued under section 415 of the internal revenue code.

F. If the maximum amount of benefit allowed under section 415 of the internal revenue code is increased after the commencement date of a member's benefit due to any cost of living adjustment announced by the United States secretary of the treasury pursuant to the provisions of section 415(d) of the internal revenue code, the amount of the monthly benefit payable under ASRS to a member whose benefit is restricted due to the provisions of section 415(d) of the internal revenue code shall be increased by the board as of the date prescribed by the United States secretary of the treasury on which the increase shall become effective. The increase shall reflect the increase in the amount of retirement income that may be payable under this article as a result of the cost of living adjustment.

G. In determining the adjustments to the defined benefit dollar limitation authorized by subsection A of this section, the board shall prescribe a larger defined benefit dollar limitation if prescribed by the United States secretary of the treasury pursuant to section 415(d) of the internal revenue code. An adjustment to the defined benefit dollar limitation prescribed in subsection A of this section is not effective before the first calendar year for which the United States secretary of the treasury publishes the adjustment. After it is prescribed by the board, the new defined benefit dollar limitation applies to the limitation year ending with or within the calendar year for which the secretary of the treasury makes the adjustment.

H. For the purposes of the limitations prescribed by this section, all member and employer contributions made to ASRS to provide a member benefits pursuant to section 38-771 or 38-771.01 and all member contributions that are not treated as picked up by the employer under section 414(h)(2) of the

internal revenue code shall be treated as made to a separate defined contribution plan.

I. On termination or partial termination of ASRS, the accrued benefit of each member is, as of the date of termination or partial termination, fully vested and nonforfeitable to the extent then funded.

J. If ASRS terminates, the benefit of any highly compensated employee as defined in section 414(q) of the internal revenue code and any highly compensated former employee is limited to a benefit that is nondiscriminatory under section 401(a)(4) of the internal revenue code and as follows:

1. Benefits distributed to any of the twenty-five active and former highly compensated employees with the greatest compensation in the current or any prior fiscal year are restricted so that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the member under a straight life annuity that is the actuarial equivalent of the sum of the member's accrued benefit, the member's other benefits under ASRS, excluding a social security supplement as defined in 26 Code of Federal Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is entitled to receive under a social security supplement.

2. Paragraph 1 of this subsection does not apply if either:

(a) After payment of the benefit to a member described in paragraph 1 of this subsection, the value of ASRS assets equals or exceeds one hundred ten per cent of the value of the current liabilities, as defined in section 412(l)(7) of the internal revenue code, of ASRS.

(b) The value of the benefits for a member described in paragraph 1 of this subsection is less than one per cent of the value of the current liabilities, as defined in section 412(l)(7) of the internal revenue code, of ASRS before distribution.

(c) The value of the benefits payable by ASRS to a member described in paragraph 1 of this subsection does not exceed three thousand five hundred dollars.

K. For the purposes of subsection J of this section, "benefit" includes loans in excess of the amount prescribed in section 72(p)(2)(A) of the internal revenue code, any periodic income, any withdrawal values payable to a living member and any death benefits not provided for by insurance on the member's life.

L. On retirement of a member who was a retired member, who resumed active membership and who subsequently retires, the limitations of this section in effect on the member's subsequent retirement apply to the member's retirement benefit payable as recomputed pursuant to section 38-766. In addition, the sum of the present value of the member's recomputed retirement benefits plus the present value of the benefits the member received during the member's prior retirement shall not exceed the present value of the limitations in effect on the member's subsequent retirement. The limitations prescribed in this subsection shall not reduce a member's retirement benefit below the retirement benefit the member was receiving before the member

resumed active membership. For the purposes of determining present value under this subsection, the board shall use the actuarial equivalent assumptions provided in section 38-711, paragraph 2.

M. For the purposes of this section:

1. The following adjustments shall be made to the definition of compensation prescribed in subsection O of this section:

(a) Compensation shall be adjusted for the types of compensation that are prescribed in this paragraph and that are paid after a member's severance from employment with an employer. Amounts described in subdivisions (b), (c) and (d) of this paragraph may be included only as compensation to the extent the amounts are paid by the later of two and one-half months after severance from employment or by the end of the limitation year that includes the date of the severance from employment. Any other payment of compensation paid after severance of employment that is not described in the types of compensation prescribed in this paragraph is not considered compensation for purposes of this section, even if payment is made within the time period prescribed in this subdivision.

(b) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services performed during the member's regular working hours or compensation for services performed outside the member's regular working hours, such as overtime or shift differential, commission, bonus or other similar payments, and the payment would have been paid to the member before a severance from employment if the member had continued in employment with the employer.

(c) Leave cash-outs shall be included in compensation if those amounts would have been included in compensation if they were paid before the member's severance from employment and the amounts are payment for unused accrued bona fide sick, vacation or other leave, but only if the member would have been able to use the leave if employment had continued.

(d) Deferred compensation shall be included in compensation if the compensation would have been included in compensation if it had been paid before the member's severance from employment and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the member had continued in employment with the employer and only to the extent that the payment is includable in the member's gross income.

(e) Compensation does include payments to an individual who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(f) Compensation does not include compensation paid to a member who is ~~permanently and totally disabled~~ A PERSON WITH A PERMANENT AND TOTAL DISABILITY as defined in section 22(e)(3) of the internal revenue code.

1 (g) Compensation shall include amounts that are includable in the
2 gross income of a member as required by section 409A or section 457(f)(1)(A)
3 of the internal revenue code or because the amounts are constructively
4 received by the member.
5 2. Compensation for a limitation year shall not include amounts earned
6 but not paid during the limitation year solely because of the timing of pay
7 periods and pay dates.
8 3. Payments awarded by an administrative agency or court or pursuant
9 to a bona fide agreement by an employer to compensate a member for lost wages
10 are compensation for the limitation year to which the back pay relates, but
11 only to the extent the payments represent wages and compensation that would
12 otherwise be included in compensation under this section.
13 N. The definition of limitation year prescribed in subsection O of
14 this section may only be changed by an amendment to subsection O, except that
15 if ASRS is terminated effective as of a date other than the last day of the
16 limitation year, the termination shall be treated as if this section has been
17 amended to change the definition of limitation year.
18 O. For the purposes of this section:
19 1. Annual additions shall be determined as provided in section 38-747,
20 subsection O.
21 2. "Annual benefit" means a benefit, including any portion of a
22 member's retirement benefit payable to an alternate payee under a qualified
23 domestic relations order that satisfies the requirements prescribed in
24 section 414(p)(1)(A)(i) of the internal revenue code and section 38-773,
25 payable annually in the form of a straight life annuity, disregarding the
26 portion of a joint and survivor annuity that constitutes a qualified joint
27 and survivor annuity as defined in section 417 of the internal revenue code,
28 with no ancillary or incidental benefits or rollover contributions and
29 excluding any portion of the benefit derived from member contributions or
30 other contributions that are treated as a separate defined contribution plan
31 under section 415 of the internal revenue code but including any of those
32 contributions that are picked up by the employer under section 414(h) of the
33 internal revenue code, or that otherwise are not treated as a separate
34 defined contribution plan. If the benefit is payable in another form, the
35 determination as to whether the limitation described in subsection A of this
36 section has been satisfied shall be made by the board by adjusting the
37 benefit so that it is actuarially equivalent to the annual benefit described
38 in this paragraph in accordance with the regulations promulgated by the
39 United States secretary of the treasury. In addition, for determining the
40 annual benefit attributable to member contributions, the factors described in
41 section 411(c)(2)(B) of the internal revenue code and the regulations
42 promulgated under the internal revenue code shall be used by the board
43 regardless of whether section 411 of the internal revenue code applies to
44 ASRS. The factors described in section 411(c)(2)(B) of the internal revenue
45 code shall be those factors described under section 417(e)(3) of the internal

revenue code and determined on the basis of the 417(e) mortality table and an interest rate as prescribed in subsection C, paragraph 5 of this section.

3. "Applicable mortality table" means the mortality table described in internal revenue service revenue ruling 2001-62.

4. "Compensation" means the member's earned income, wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with the employer and includes amounts described in sections 104(a)(3) and 105(a) of the internal revenue code, but only to the extent that these amounts are includable in the gross income of the member. Compensation also includes any elective deferral as defined in section 402(g)(3) of the internal revenue code and any amount that is contributed or deferred by an employer at the election of a member and that is not includable in the gross income of the member by reason of section 125, 132(f)(4) or 457 of the internal revenue code. Compensation does not mean:

(a) Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the employee for the taxable year in which contributed and any distributions from a plan of deferred compensation, regardless of whether the amounts are includable in gross income of the employee when distributed, except that any amount received by a member pursuant to an unfunded nonqualified plan may be considered as compensation for the purposes of this section in the year the amounts are includable in the gross income of the member under the internal revenue code.

(b) Other amounts that receive special tax benefits, such as premiums for group term life insurance, but only to the extent that the premiums are not includable in the gross income of the employee, qualified transportation fringe benefits as defined in section 132 of the internal revenue code and, effective for plan years beginning from and after December 31, 1987, any amounts under section 125 of the internal revenue code that are not available to a member in cash in lieu of group health coverage because the member is unable to certify that the member has other health coverage.

5. "Defined benefit dollar limitation" means the dollar limitation determined under subsection A of this section.

6. "Defined benefit plan" has the same meaning prescribed in section 414(j) of the internal revenue code.

7. "Defined contribution plan" has the same meaning prescribed in section 414(i) of the internal revenue code.

8. "Limitation year" and "years of service" mean the fiscal year.

Sec. 164. Section 38-782, Arizona Revised Statutes, is amended to read:

38-782. Group health and accident coverage for retired public employees and elected officials and their dependents; definition

A. The board shall establish group health and accident coverage for eligible retired, surviving and ~~disabled~~ members WITH A DISABILITY and their dependents. The board may establish a self-insurance program for the purposes of this subsection if the board determines that self-insuring would be less expensive than and at least as effective as a fully insured plan, while considering the risks and costs. If the board establishes a self-insurance program, the board shall provide that the self-insurance program include all health coverage benefits that are required pursuant to title 20. ASRS shall establish a separate account for any self-insurance program established pursuant to this section in an amount determined appropriate by ASRS. ASRS shall not use or divert any part of the corpus or income of the account for any purpose other than to administer the self-insurance program unless the board determines that a self-insurance program should no longer be offered. If a self-insurance program is no longer offered, monies in the account shall be transferred to another account of ASRS as determined by ASRS. If an insured retired or ~~disabled~~ member WITH A DISABILITY dies before the insured member's dependent beneficiary or an insured surviving dependent, the dependent beneficiary or insured surviving dependent is entitled to coverage at group rates if the dependent beneficiary or surviving dependent elects to continue in the coverage within six months of the insured member's death and the dependent beneficiary or surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On notification of the insured member's death, the board shall immediately notify a dependent beneficiary or an insured surviving dependent of the provisions of this section.

B. Retired members of the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who are receiving benefits from the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and who are not covered by section 38-651.01 may participate in group health and accident coverage provided pursuant to this section. On the death of an insured member of the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to article 3.1 of this

chapter, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628, the insured surviving dependent is entitled to coverage at group rates. Except as provided in subsection H of this section, the surviving dependent shall be charged amounts that are sufficient to pay for the premium and administrative expense of providing the coverage.

C. The board may enter into agreements with retired, surviving and ~~disabled~~ members WITH A DISABILITY of ASRS and retired members of the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter who elect to obtain the coverage provided pursuant to subsection A of this section. Those agreements may include provisions for the deduction from the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing the coverage.

D. The board of trustees of the public safety personnel retirement system may enter into agreements with retired members of the public safety personnel retirement system, the elected officials' retirement plan, the corrections officer retirement plan and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the deduction from the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under their retirement benefits and the administrative expense of providing the coverage.

E. The board may enter into agreements with retired members of the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage.

F. If an insured member receiving long-term disability benefits pursuant to article 2.1 of this chapter becomes ineligible for the long-term disability benefits, the member and the covered dependents of the member may continue to participate in the group health and accident coverage provided pursuant to this section subject to the following conditions:

1. Participation in the coverage is limited to twelve months from the date the member ceases eligibility for benefits under article 2.1 of this chapter or the member commences employment, whichever occurs first.

2. The member shall pay the full premium cost of the coverage selected, and the member is not eligible for benefits pursuant to section 38-783.

3. If a member who participates in the coverage dies during the twelve month period provided by this subsection, covered dependents of the member may continue coverage after the death of the member through the end of the twelve month period. Covered dependents of the member who continue coverage

pursuant to this paragraph shall pay the full premium cost of the coverage selected and are not eligible for benefits pursuant to section 38-783.

G. Retired, surviving or ~~disabled~~ members WITH A DISABILITY who are not eligible for medicare, who live in this state, who enroll in a qualifying health maintenance organization under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option of enrolling with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.

2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization are the responsibility of and at the expense of the member.

3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the member living outside the area of the qualifying health maintenance organization.

H. Public monies shall not be spent to pay all or any part of the insurance premium pursuant to this section except for monies authorized to be paid for any insured from the retirement plan from which the insured is receiving benefits.

I. A retired member of the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter may elect to obtain the coverage provided pursuant to subsection A of this section, but shall pay the premium for the coverage selected and is not eligible for benefits pursuant to section 38-783 or 38-817.

J. For the purposes of this section, "eligible retired, surviving and ~~disabled~~ member WITH A DISABILITY" means a retired member who is receiving retirement benefits from ASRS, a designated beneficiary of a deceased member who is receiving a survivor benefit pursuant to section 38-762, subsection C as monthly income or a ~~disabled~~ member WITH A DISABILITY who is receiving long-term disability benefits pursuant to section 38-651.03 or article 2.1 of this chapter, and who does not otherwise elect to obtain coverage under a group health and accident insurance plan or program.

Sec. 165. Section 38-783, Arizona Revised Statutes, is amended to read:

38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions

A. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the single coverage premium of any health and accident insurance for each retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY of ASRS if the member elects to participate in the coverage provided by ASRS or section 38-651.01 or elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer. A contingent annuitant must be receiving a monthly retirement benefit from ASRS in order to obtain any premium payment provided by this section. The board shall pay:

1. Up to one hundred fifty dollars per month for a member of ASRS who is not eligible for medicare if the retired or ~~disabled~~ member WITH A DISABILITY has ten or more years of credited service.

2. Up to one hundred dollars per month for each member of ASRS who is eligible for medicare if the retired or ~~disabled~~ member WITH A DISABILITY has ten or more years of credited service.

B. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the family coverage premium of any health and accident insurance for a retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY of ASRS who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. If a member of ASRS and the member's spouse are both either retired or ~~disabled~~ HAVE DISABILITIES under ASRS and apply for family coverage, the member who elects family coverage is entitled to receive the payments under this section as if they were both applying under a single coverage premium unless the payment under this section for family coverage is greater. Payment under this subsection is in the following amounts:

1. Up to two hundred sixty dollars per month if the member of ASRS and one or more dependents are not eligible for medicare.

2. Up to one hundred seventy dollars per month if the member of ASRS and one or more dependents are eligible for medicare.

3. Up to two hundred fifteen dollars per month if either:

(a) The member of ASRS is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The member of ASRS is eligible for medicare and one or more dependents are not eligible for medicare.

C. In addition each retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY of ASRS with less than ten years of credited service and a dependent of such a retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY who elects to participate in the coverage provided by ASRS or section 38-651.01 or who elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in

whole or in part, by an employer to an insurer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 9.0 to 9.9 years of credited service, ninety per cent.
2. 8.0 to 8.9 years of credited service, eighty per cent.
3. 7.0 to 7.9 years of credited service, seventy per cent.
4. 6.0 to 6.9 years of credited service, sixty per cent.
5. 5.0 to 5.9 years of credited service, fifty per cent.
6. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in this section for a member of ASRS.

E. Notwithstanding subsections A, B and C of this section, for a member who retires on or after ~~the effective date of this amendment to this section~~ AUGUST 2, 2012, the board shall not make a payment under this section to a retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY who is enrolled in an employer's active employee group health and accident insurance program either as the insured or as a dependent, except that if the retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY is enrolled as a dependent and the premium paid to the employer's active employee group health and accident insurance program is not subsidized by the employer, the retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY is entitled to receive the amount provided in subsection A of this section.

F. The board shall establish a separate account that consists of the benefits provided by this section. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of benefits under this section unless the liabilities of ASRS to provide the benefits are satisfied. If the liabilities of ASRS to provide the benefits described in this section are satisfied, the board shall return any amount remaining in the account to the employer.

G. Payment of the benefits provided by this section is subject to the following conditions:

1. The payment of the benefits is subordinate to the payment of retirement benefits payable by ASRS.
2. The total of contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five per cent of the total actual employer and employee contributions to ASRS, less contributions to fund past service credits, after the day the account is established.
3. The board shall deposit the benefits provided by this section in the account.
4. The contributions by the employer to the account shall be reasonable and ascertainable.

H. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 1 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced to the retiring member for life. The amount of the optional premium benefit payment shall be the actuarial equivalent of the premium benefit payment to which the retired member would otherwise be entitled. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

(a) If the retired member names a different contingent annuitant, the optional premium benefit payment shall be adjusted to the actuarial equivalent of the original premium benefit payment based on the age of the new contingent annuitant. The adjustment shall include all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the retired member's date of retirement. Payment of this adjusted premium benefit payment shall continue under the provisions of the optional premium benefit payment previously elected by the retired member. A retired member cannot name a different contingent annuitant if the retired member has at any time rescinded the optional form of health and accident insurance premium benefit payment.

(b) If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the

contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

I. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 2 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the retired member but whose payments continue for the retired member's lifetime beyond the five, ten or fifteen year period. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board. If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the period certain and life option reduction factor elected by the

retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

J. If, at the time of retirement, a retiring member does not elect to receive a reduced premium benefit payment pursuant to subsection H or I of this section, the retired member's contingent annuitant is not eligible at any time for the optional premium benefit payment.

K. A contingent annuitant is not eligible for any premium benefit payment if the contingent annuitant was not enrolled in an eligible health and accident insurance plan at the time of the retired member's death or if the contingent annuitant is not the dependent beneficiary or insured surviving dependent as provided in section 38-782.

L. For the purposes of this section:

1. "Account" means the separate account established pursuant to subsection F of this section.

2. "Credited service" includes prior service.

3. "Prior service" means service for this state or a political subdivision of this state before membership in the defined contribution program administered by ASRS.

4. "Subsidized" means a portion of the total premium is paid by the employer, but does not necessarily mean a plan in which the employer uses blended rates to determine the total premium.

Sec. 166. Section 38-797, Arizona Revised Statutes, is amended to read:

38-797. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "ASRS" means the Arizona state retirement system established by article 2 of this chapter.

2. "Assets" means the accumulated resources of the LTD program.

3. "Board" means the ASRS board established pursuant to section 38-713.

4. "Compensation" has the same meaning prescribed in section 38-711.

5. "Depository" means a bank in which the monies of the LTD program are deposited and collateralized as provided by law.

6. "Employer" has the same meaning prescribed in section 38-711.

7. "Employer contributions" means all amounts paid into the LTD program by an employer.

8. "Fiscal year" has the same meaning prescribed in section 38-711.

9. "LTD program" means the long-term disability program established by this article.

10. "Member":

(a) Has the same meaning prescribed in section 38-711.

(b) Includes an employee described in section 38-956.

11. "Monthly compensation" means one-twelfth of a member's annual compensation paid and payable in the fiscal year during which a member ~~becomes disabled~~ DEVELOPS A DISABILITY.

12. "Normal retirement date":

(a) Has the same meaning prescribed in section 38-711 for members eligible pursuant to article 2 of this chapter.

(b) Means sixty-five years of age for members eligible pursuant to section 38-956.

13. "Political subdivision" has the same meaning prescribed in section 38-711.

14. "State" has the same meaning prescribed in section 38-711.

Sec. 167. Section 38-797.07, Arizona Revised Statutes, is amended to read:

38-797.07. <u>LTD program benefits; limitations; definitions</u>

A. The LTD program is subject to the following limitations:

1. Except as provided in paragraph 9 of this subsection, monthly LTD program benefits shall not exceed two-thirds of a member's monthly compensation at the time disability commences, reduced by:

(a) For a member whose disability commences before July 1, 2008, sixty-four per cent of social security disability benefits that the member and the member's dependents are eligible to receive.

(b) For a member whose disability commences on or after July 1, 2008, eighty-five per cent of social security disability benefits that the member and the member's dependents are eligible to receive, but not including:

(i) The amount of attorney fees approved pursuant to social security administration rules and reasonable documented costs paid to an attorney to secure that disability benefit.

(ii) Any cost-of-living adjustments that are granted after the member commences benefits under this section.

(c) For a member whose disability commences before July 1, 2008, eighty-three per cent of social security retirement benefits that the member is eligible to receive.

(d) For a member whose disability commences on or after July 1, 2008, eighty-five per cent of social security retirement benefits that the member is eligible to receive, but not including any cost-of-living adjustments that are granted after the member commences benefits under this section.

(e) All of any workers' compensation benefits.

(f) All of any payments for a veteran's disability if both of the following apply:

(i) The veteran's disability payment is for the same condition or a condition related to the condition currently causing the member's total disability.

(ii) The veteran's disability is due to, or a result of, service in the armed forces of the United States.

(g) All of any other benefits by reason of employment that are financed partly or wholly by an employer, including payments for sick leave. This subdivision does not include any retirement benefit that is received by the member pursuant to a state retirement system or plan other than ASRS.

(h) Fifty per cent of any salary, wages, commissions or other employment related pay that the member receives or is entitled to receive from any gainful employment in which the member actually engages.

2. For a member whose disability commences on or after August 2, 2012, a member's monthly income from the monthly LTD program benefits and sources listed in paragraph 1 of this subsection shall not exceed one hundred per cent of the member's monthly compensation at the time disability commences. ASRS shall offset the member's monthly LTD program benefits by the amount necessary to reduce the member's total monthly income to meet the limit prescribed in this paragraph.

3. Monthly LTD program benefits are not payable until a member has ~~been totally disabled~~ HAD A TOTAL DISABILITY for a period of six consecutive months.

4. Monthly LTD program benefits are not payable to a member who files an initial claim for disability more than twelve months after the date of the member's date of disability unless the member demonstrates to ASRS good cause for not filing the initial claim within twelve months after the date of disability.

5. Monthly LTD program benefits are not payable to a member who is receiving retirement benefits from ASRS.

6. Monthly LTD program benefits are not payable to a member whose disability is due to, or a result of, any of the following:

(a) An intentionally self-inflicted injury.

(b) War, whether declared or not.

(c) An injury incurred while engaged in a felonious criminal act or enterprise.

(d) For a member whose most recent membership in the LTD program commences before July 1, 2008, an injury or sickness for which the member received medical treatment within three months before the date of the member's coverage under the LTD program. This subdivision does not apply to a member who either:

(i) Has been an active member of an employer for twelve continuous months.

(ii) Is employed by an employer before July 1, 1988.

(e) For a member whose most recent membership in the LTD program commences on or after July 1, 2008, an injury or sickness for which the member received medical treatment within six months before the date of the member's coverage under the LTD program. This subdivision does not apply to a member who has been an active member of an employer for twelve continuous months.

7. Monthly LTD program benefits cease to be payable to a member at the earliest of the following:

(a) The date the member ceases to ~~be totally disabled~~ HAVE A TOTAL DISABILITY.

(b) The date the member:

(i) Ceases to be under the direct care of a doctor.

(ii) Refuses to undergo any medical examination or refuses to participate in any work rehabilitation program for which the member is reasonably qualified by education, training or experience and that is requested by the insurance company or claims administrator that is selected by the board to administer the LTD program.

(c) The date the member withdraws employee contributions with interest and ceases to be a member.

(d) The later of the following:

(i) The member's normal retirement date.

(ii) The month following sixty months of payments if disability occurs before sixty-five years of age.

(iii) The month following attainment of seventy years of age if disability occurs at sixty-five years of age or after but before sixty-nine years of age.

(iv) The month following twelve months of payments if disability occurs at or after sixty-nine years of age.

(e) If the member is convicted of a criminal offense and sentenced to more than six months in a jail, prison or other penal institution, the first day of the month following the first thirty continuous days of the member's confinement for the remainder of the confinement.

8. Monthly LTD program benefits are payable only for disabilities that commence on or after July 1, 1988.

9. The minimum benefit for a member who is entitled to receive monthly LTD program benefits is fifty dollars per month.

10. Members are eligible to receive the LTD program benefits and payments described in paragraph 1 of this subsection, and the reductions provided by paragraph 1 of this subsection apply even though the social security benefits are not actually paid as follows:

(a) For primary and dependent social security benefits, the members are eligible for the social security benefits until the social security benefits are actually awarded, or if the social security benefits are denied, until the member pursues the social security appeal process through a hearing before a social security administrative law judge or until the insurance company or claims administrator determines that the member is not eligible for social security benefits.

(b) For benefits and payments from any other source provided in paragraph 1 of this subsection, the members are eligible for the benefits if it is reasonable to believe that those benefits will be paid on proper completion of the claim or would have been paid except for the failure of the member to pursue the claim in time.

11. A member shall be considered ~~totally disabled~~ TO HAVE A TOTAL DISABILITY if based on objective medical evidence:

(a) During the first thirty months of a period of disability, the member is unable to perform all duties of the position held by the member when the member ~~became totally disabled~~ DEVELOPED A TOTAL DISABILITY.

(b) For a member who has received monthly LTD program benefits for twenty-four months within a five-year period, the member is unable to perform any work for compensation or gain for which the member is reasonably qualified by education, training or experience in an amount at least equal to the scheduled LTD program benefits prescribed in paragraph 1 of this subsection.

B. A member who is eligible pursuant to article 2 of this chapter and who receives monthly LTD program benefits is entitled to receive service credit pursuant to article 2 of this chapter from the time disability commences until LTD program benefits cease to be payable, except that for a member who receives monthly LTD program benefits on or after June 30, 1999 the number of years of service credited to the member's retirement account during the period the member receives LTD program benefit payments shall not cause the member's total credited service for retirement benefits to exceed the greater of thirty years or the total years of service credited to the member's retirement account on the commencement of disability.

C. This section does not prohibit a member whose disability has been established to the satisfaction of the board from relying on treatment by prayer through spiritual means in accordance with the tenets and practice of a recognized church, religious denomination or Native American traditional medicine by a duly accredited practitioner of the church, denomination or Native American traditional medicine without suffering reduction or suspension of the member's monthly LTD program benefits.

D. ASRS may suspend or terminate benefits under this article if a member fails to provide information, data, paperwork or other materials that are requested by ASRS or the insurance company or claims administrator that is selected by the board to administer the LTD program. If the member provides the information requested, ASRS shall retroactively reinstate the benefits or claim for which the member qualifies under this article.

E. For the purposes of this section:

1. "Objective medical evidence" means evidence that established facts and conditions, as perceived without distortion by personal feelings, prejudices or interpretations, and includes x-rays, quantitative tests, laboratory findings, data, records, reports from the attending physician and reports from a consulting physician, as applicable.

2. "Received medical treatment" means that the member consulted with or received the advice of a licensed medical or dental practitioner, including advice given during a routine examination, and it includes situations in which the member received medical or dental care, treatment or services, including the taking of drugs, medication, insulin or similar substances.

3. "Social security" and "social security disability" includes the railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States Code sections 231 through 231u).

Sec. 168. Section 38-797.08, Arizona Revised Statutes, is amended to read:

38-797.08. Errors; benefit recomputation

If any change or error in the records results in any member receiving from the LTD program more or less than the member would have been entitled to receive if the records had been correct, the board shall correct the error and shall adjust the payments in a manner so that the equivalent of the benefit to which the member was correctly entitled is paid. The board shall correct any change or error and shall pay the appropriate monies to a member or shall recover monies from the member if the member is overpaid. The board shall recover monies by reducing any benefit that is otherwise payable by ASRS or the LTD program to an active, inactive, ~~disabled~~ MEMBER WITH A DISABILITY or retired member, survivor, contingent annuitant, beneficiary or alternate payee.

Sec. 169. Section 38-807, Arizona Revised Statutes, is amended to read:

38-807. Survivor pensions

A. The surviving spouse of a deceased retired member shall be paid a surviving spouse's pension if the spouse was married to the member for a period of at least two consecutive years at the time of the member's death. Payment of a surviving spouse's pension commences as of the last day of the month following the retired member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs. For a member who becomes a member of the plan before January

1, 2012, the amount of pension paid a surviving spouse is equal to three-fourths of the amount of the deceased retired member's pension at the time of death. For a member who becomes a member of the plan on or after January 1, 2012, the amount of pension paid a surviving spouse is equal to one-half of the amount of the deceased retired member's pension at the time of death, except that at the time of retirement a member may elect an optional form of retirement benefit, as determined by the board, that provides for an actuarially reduced pension and an increased surviving spouse's benefit. The surviving spouse shall file a written application with the plan in order to receive the survivor benefit.

B. The surviving spouse of a deceased active or inactive member shall be paid a surviving spouse's pension if the spouse was married to the member on the date of the member's death. Payment of a surviving spouse's pension commences as of the last day of the month following the member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs. For the purposes of this subsection, for a member who becomes a member of the plan before January 1, 2012, the surviving spouse's pension shall be three-fourths of the amount calculated in the same manner as a disability pension is calculated pursuant to section 38-806. For a member who becomes a member of the plan on or after January 1, 2012, the surviving spouse's pension shall be one-half of the amount calculated in the same manner as a disability pension is calculated pursuant to section 38-806. The surviving spouse shall file a written application with the plan in order to receive the survivor benefit.

C. If the deceased retired or active or inactive member does not have an eligible surviving spouse or the pension of the eligible surviving spouse is terminated, each eligible child is entitled to receive a child's pension. A child's pension terminates if the child is adopted. In the case of a ~~disabled~~ child WITH A DISABILITY, the child's pension terminates if the child ceases to be under a disability or ceases to be a dependent of the surviving spouse or guardian. The amount of the pension of each eligible child is an equal share of the amount of the surviving spouse's pension. The surviving minor or ~~disabled~~ child's WITH A DISABILITY pension shall be paid to the person who is the legally appointed guardian or custodian of the eligible child until the eligible child reaches eighteen years of age, at which time the eligible child's pension shall be paid directly to the eligible child so long as the person remains eligible to receive the pension and is not subject to a guardianship or conservatorship due to disability or incapacity. The pension of a ~~disabled~~ child WITH A DISABILITY who is eighteen years of age or older and who is subject to a guardianship or conservatorship due to disability or incapacity shall continue to be paid to the guardian or conservator so long as the child remains eligible for the pension payment.

D. If a member dies and no pension is payable on account of the member's death, the deceased member's accumulated contributions shall be paid to the person or persons designated by the deceased member in writing and

filed with the board. If the designated person or persons do not survive the deceased member, the accumulated contributions shall be paid to the estate of the deceased member.

Sec. 170. Section 38-833, Arizona Revised Statutes, is amended to read:

38-833. Member and employer contributions; disability

A. Beginning January 1, 2014, the defined contribution system is the retirement program for elected officials, unless the elected official continues or resumes participation in ASRS pursuant to section 38-727, subsection C. Elected officials shall be enrolled in the defined contribution plan established by the board pursuant to this article.

B. Each elected official who is a member of the defined contribution system shall contribute eight per cent of the member's gross compensation by salary reduction that shall be deposited in the member's annuity account. Each member shall also contribute to the elected officials' defined contribution retirement system disability program pursuant to article 3.2 of this chapter.

C. Although designated as employee contributions, all member contributions made to the defined contribution system shall be picked up and paid by the employer in lieu of contributions by the employee. The contributions picked up by an employer may be made through a reduction in the member's compensation. A member participating in the defined contribution system does not have the option of choosing to receive the contributed amounts directly instead of the employer paying the amounts to the defined contribution system. All member contributions that are picked up by the employer as provided in this subsection shall be treated as employer contributions under section 414(h) of the internal revenue code, shall be excluded from members' gross income for federal and state income tax purposes and are includable in the gross income of the members or the members' beneficiaries only in the taxable year in which they are distributed.

D. Each employer shall annually make a contribution equal to six per cent of each member's gross compensation. The pro rata share of this amount shall be paid on each date that a member contribution is made and shall be credited to the member's annuity account. Each employer shall also contribute to the elected officials' defined contribution retirement system disability program pursuant to article 3.2 of this chapter.

E. Member and employer contributions and earnings on those contributions are immediately vested. A member may receive benefits pursuant to article 3.2 of this chapter if the member ~~becomes totally disabled~~ DEVELOPS A TOTAL DISABILITY.

Sec. 171. Section 38-840.07, Arizona Revised Statutes, is amended to read:

38-840.07. Errors; benefit recomputation

If any change or error in the records results in any member receiving from the EODC disability program more or less than the member would have been

entitled to receive if the records had been correct, the board shall correct the error and shall adjust the payments in a manner so that the equivalent of the benefit to which the member was correctly entitled is paid. The board shall correct any change or error and shall pay the appropriate monies to a member or shall recover monies from the member if the member was overpaid. The board shall recover monies by reducing any benefit that is otherwise payable by the EODC disability program to a ~~disabled~~ member WITH A DISABILITY.

Sec. 172. Section 38-844.06, Arizona Revised Statutes, is amended to read:

38-844.06. Additional deferred retirement option plan provisions

A. Except as provided by subsection B of this section, beginning on the day after the date the member elects to participate in the deferred retirement option plan, employee and employer contributions pursuant to section 38-843 cease with respect to that member.

B. A member who has less than twenty years of credited service on January 1, 2012 and who elects to participate in the deferred retirement option plan on or after January 1, 2012, shall make employee contributions to the system in the amount equal to the employee contributions calculated pursuant to section 38-843.

C. A member who elects to participate in the deferred retirement option plan and who ~~becomes disabled~~ DEVELOPS A DISABILITY during the period of deferred retirement option plan participation is eligible to apply for disability retirement benefits. If the application for disability retirement benefits is approved by the local board:

1. The disability retirement benefits shall be computed using the factors of credited service and average monthly benefit compensation in effect the day before the effective date of the member's deferred retirement option plan participation.

2. All amounts in the member's deferred retirement option plan participation account shall be distributed pursuant to section 38-844.08.

D. If a member dies during the period of the member's deferred retirement option plan participation, the designated beneficiary of the member is entitled to receive all amounts in the member's deferred retirement option plan participation account.

Sec. 173. Section 38-846, Arizona Revised Statutes, is amended to read:

38-846. Death benefits

A. The surviving spouse of a deceased retired member shall be paid a surviving spouse's pension if the spouse was married to the member for a period of at least two consecutive years at the time of the member's death. Payment of a surviving spouse's pension shall commence as of the last day of the month following the retired member's date of death. The last payment

shall be made as of the last day of the month in which the surviving spouse's death occurs.

B. The surviving spouse of a deceased member shall be paid a surviving spouse's pension if the spouse was married to the member on the date of the member's death. Payment of a surviving spouse's pension commences as of the last day of the month following the member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs.

C. The surviving spouse of a deceased retired member is entitled to receive a monthly amount equal to four-fifths of the monthly amount of pension that the decedent would have received immediately before death.

D. The surviving spouse of a deceased member who was not killed in the line of duty or did not die from injuries suffered in the line of duty is entitled to receive a monthly amount calculated in the same manner as an accidental disability pension is calculated pursuant to section 38-845, subsection B. The surviving spouse of a deceased member who is killed in the line of duty or dies from injuries suffered in the line of duty is entitled to receive a monthly amount equal to the deceased member's average monthly benefit compensation less any amount payable for an eligible child under this section. A member who was eligible for or receiving a temporary disability pension at the time of the member's death is not deemed to be retired for the purposes of this subsection. For the purposes of this subsection, "killed in the line of duty" means the decedent's death was the direct and proximate result of the performance of the decedent's public safety duties and does not include suicide.

E. A surviving spouse shall file a written application with the system in order to receive a survivor benefit.

F. If at least one eligible child is surviving at the death of a member or retired member, but no surviving spouse's pension then becomes payable, a guardian's or conservator's pension shall be payable to the person who is serving, or who is deemed by the local board to be serving, as the legally appointed guardian or custodian of the eligible child. If an eligible child of a member or retired member is surviving at the member's or retired member's death, the eligible child is entitled to receive a child's pension payable to the person who is serving or who is deemed by the local board to be serving as the legally appointed guardian or custodian of the eligible child until the eligible child reaches eighteen years of age, at which time the eligible child's pension shall be paid directly to the eligible child if the person remains eligible to receive the pension and is not subject to a guardianship or conservatorship due to disability or incapacity. The pension of a ~~disabled~~ child WITH A DISABILITY who is eighteen years of age or older and who is subject to a guardianship or conservatorship due to disability or incapacity shall continue to be paid to the guardian or conservator if the child remains eligible for the pension payment. A child's pension or a guardian's or conservator's pension

terminates if the child is adopted. In the case of a ~~disabled~~ child WITH A DISABILITY, the child's pension or the guardian's or conservator's pension terminates if the child ceases to be under a disability or ceases to be a dependent of the surviving spouse or guardian. The member may also direct by designation to the local board that the guardian or conservator pension or child's pension be paid to the trustee of a trust created for the benefit of the eligible child. A guardian's or conservator's pension shall also become payable if at least one eligible child is surviving when a surviving spouse's pension terminates. The guardian or conservator shall file a written application with the system in order to receive the guardian's or conservator's pension and child's pension.

G. The board shall pay a guardian's or conservator's pension during the same period in which a pension is payable to at least one eligible child. The guardian, conservator or designated trustee is entitled to receive the same monthly amount as would have been payable to the decedent's surviving spouse had a surviving spouse's pension become payable on the decedent's death.

H. Each eligible child is entitled to a monthly amount equal to one-tenth of the monthly amount of pension that the deceased member or retired member would have received immediately before death. The pension for a child of a deceased member shall be calculated in the same manner as an accidental disability is calculated pursuant to section 38-845, subsection B. A deceased member shall be assumed to be retired for reasons of accidental disability immediately before the member's death. If there are three or more children eligible for a child's pension, a maximum of two shares of the child's pension shall be payable, the aggregate of such shares to be apportioned in equal measure to each eligible child.

I. If a member has accumulated contributions remaining in the system at the date of death of the last beneficiary, a lump sum refund of such accumulated contributions shall be payable to the person whom the member has designated to the local board as the member's refund beneficiary, or if the member's refund beneficiary is not then surviving, to the designated contingent refund beneficiary, or if the designated contingent refund beneficiary is not then surviving or if the surviving designated beneficiary does not apply for the benefit within twelve months from the date of the member's death, at the election of the local board to the person's nearest of kin as determined by the local board or to the estate of the deceased member. The amount of the lump sum refund shall be the remaining accumulated contributions. The beneficiary or person who is claiming to be the nearest of kin shall file a written application in order to receive the refund.

J. In calculating the right to and the amount of the surviving spouse's pension, the law in effect on the date of the death of the member or retired member controls, unless the law under which the member retired provides for a greater benefit amount for a surviving spouse.

Sec. 174. Section 38-849, Arizona Revised Statutes, is amended to read:

38-849. Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired or member with a disability; definition

A. If a member is convicted of, or discharged because of, theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member shall be subject to restitution and fines imposed by a court of competent jurisdiction. The court may order the restitution or fines to be paid from any payments otherwise payable to the member from the retirement system.

B. A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the system with an intent to defraud the system is guilty of a class 5 felony. If any change or error in the records results in any member or beneficiary receiving from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct, the local board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If a member is convicted of a crime specified in this subsection, section 13-713 applies.

C. If a member who received a severance refund on termination of employment pursuant to section 38-846.02 becomes reemployed with the same employer within two years after the former member's termination date, the member may have forfeited credited service attributable to service rendered during a prior period of service as an employee restored on satisfaction of each of the following conditions:

1. The member files with the system a written application for reinstatement of forfeited credited service within ninety days after again becoming an employee.

2. The retirement fund is paid the total amount previously withdrawn pursuant to section 38-846.02 plus compound interest from the date of withdrawal to the date of repayment. Interest shall be computed at the rate of nine per cent for each year compounded each year from the date of withdrawal to the date of repayment. Forfeited credited service shall not be restored until complete payment is received by the fund.

3. The required payment is completed within one year after returning to employee status.

D. If a member who received a severance refund on termination of employment, as provided in section 38-846.02, is subsequently reemployed by an employer, the member's prior service credits shall be cancelled and service shall be credited only from the date the member's most recent reemployment period commenced. However, a present active member of the system who forfeited credited service, received a severance refund pursuant

to section 38-846.02 and becomes reemployed with the same employer two years or more after the member's termination date or becomes reemployed with another employer may elect to redeem any part of that forfeited credited service by paying into the system any amounts required pursuant to this subsection. A present active member who elects to redeem any part of forfeited credited service for which the member is deemed eligible by the board shall pay into the system the amounts previously paid or transferred to the member as a severance refund plus an amount, computed by the system's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the system's actuary. On satisfaction of this obligation the member's prior service credits shall be reinstated.

E. If a retired member becomes reemployed in any capacity by the employer from which the member retired before one year from the date of retirement or in the same position at any time following retirement:

1. The following apply:

(a) Within ten days after the retired member is reemployed, the local board shall advise the system in writing of the retired member's reemployment.

(b) The system shall not make pension payments to the retired member during the period of reemployment.

(c) Employee contributions shall not be made on the retired member's account, nor shall any service be credited during the period of reemployment. On subsequent termination of employment by the retired member, the retired member is entitled to receive a pension based on the member's service and compensation before the date of the member's reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.

2. Paragraph 1, subdivisions (a) and (b) of this subsection do not apply if either:

(a) The retired member becomes reemployed after sixty consecutive days from the member's retirement date as a result of participating in an open competitive new hire process for an entry level, nonsupervisory position, except if the retired member is hired for the same position.

(b) The retired member is hired as a fire inspector or arson investigator.

F. If a retired member is assigned voluntary duties acting as a limited authority peace officer, pursuant to the Arizona peace officer standards and training board rules, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall not pay the alternate contribution rate pursuant to section 38-843.05.

G. If after one year from the date of retirement a retired member becomes reemployed by the employer from which the member retired in a position other than the same position from which the member retired, employee

contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.

H. At any time following retirement, if the retired member becomes employed by an employer, other than the employer from which the member retired, in a position ordinarily filled by an employee of an eligible group, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.

I. If a member who retired under an accidental or ordinary disability becomes reemployed as an employee of an eligible group, section 38-844 applies and a determination shall be made by the local board as to whether subsection E, F, G or H of this section applies.

J. The local board shall review all reemployment determinations and voluntary assignments as described in subsection F of this section. If the local board or the system is not provided the necessary information required by the system to make a reemployment determination, the local board and the system shall suspend pension payments until information is received and a determination is made regarding whether the reemployment meets the requirements of subsection E, F, G, H or I of this section.

K. A person who defrauds the system or who takes, converts, steals or embezzles monies owned by or from the system and who fails or refuses to return the monies to the system on the board's written request is subject to civil suit by the system in the superior court in Maricopa county. On entry of an order finding the person has defrauded the system or taken, converted, stolen or embezzled monies owned by or from the system, the court shall enter an order against that person and for the system awarding the system all of its costs and expenses of any kind, including attorney fees, that were necessary to successfully prosecute the action. The court shall also grant the system a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this subsection in an amount equal to all amounts awarded to the system, plus interest at the rate prescribed by section 44-1201, until all amounts owed are paid to the system.

L. Notwithstanding any other provision of this article, the board may offset against any benefits otherwise payable by the system to an active or retired member or survivor any court ordered amounts awarded to the board and system and assessed against the member or survivor.

M. For the purposes of this section, "same position" means a position in which the member performs substantially similar duties that were performed and exercises substantially similar authority that was exercised by the retired member before retirement.

Sec. 175. Section 38-886, Arizona Revised Statutes, is amended to read:

38-886. Accidental disability retirement; total and permanent disability retirement; qualification; amount of pension; conditions for continued payment of pension

A. A member may retire and receive an accidental disability pension or a total and permanent disability pension if the local board finds that all of the following conditions occur:

1. An application for disability retirement is filed with the retirement plan or the local board by either the member or the member's participating employer after the disabling incident or within one year after the date the member ceases to be an employee and the member's employment is terminated by reason of accidental disability or total and permanent disability. Timely application for an accidental or a total and permanent disability pension is a prerequisite to receipt of the pension.

2. The member undergoes all medical examinations and tests ordered by the local board and releases to the local board all medical reports and records requested by the local board.

3. The local board determines that an accidental disability or total and permanent disability condition exists that meets the requirements for accidental disability retirement or total and permanent disability retirement.

B. The effective date of an accidental disability retirement or a total and permanent disability retirement shall not predate the date of disability or the date the member ceases to be an employee, and the disability pension payments shall not violate section 38-895.02.

C. The amount of an accidental disability pension or a total and permanent disability pension is equal to fifty per cent of the member's average monthly salary or the amount computed using the member's average monthly salary and the member's actual years of credited service, whichever is higher.

D. The local board may require a ~~disabled~~ retired member WITH A DISABILITY to undergo periodic reevaluation of the continuation of accidental disability or total and permanent disability. If the ~~disabled~~ retired member WITH A DISABILITY refuses to submit to reevaluation, the local board may suspend payment of the pension. If the refusal continues for one year, the local board may revoke the ~~disabled~~ retired member's WITH A DISABILITY rights to the pension. An accidental disability pension or a total and permanent disability pension is terminated if the local board finds the retired member no longer meets the requirements for accidental disability retirement or total and permanent disability retirement. This subsection does not apply after a ~~disabled~~ retired member WITH A DISABILITY reaches the member's normal retirement date. The amount of a disability pension shall not be recomputed at a ~~disabled~~ retired member's WITH A DISABILITY normal retirement date.

E. A member does not qualify for an accidental disability pension or a total and permanent disability pension if the local board determines that the member's disability results from any of the following:

1. An injury suffered while engaged in a felonious criminal act or enterprise.

2. Service in the armed forces of the United States that entitles the member to a veteran's disability pension.

3. A physical or mental condition or injury that existed or occurred before the member's date of membership in the plan.

F. Local boards shall base a finding of total and permanent disability and accidental disability on medical evidence obtained by a designated physician or a physician working in a clinic that is selected by the local board and shall disregard any other medical evidence or opinions. If the local board retains more than one physician in connection with any case, the local board shall resolve any material conflicts in the medical evidence that is presented by the local board's designated physicians or clinics.

G. If an accidental disability ceases before a retired member reaches the member's normal retirement date and the member is reemployed by an employer under the plan, the pension payable on the member's subsequent retirement shall be determined as provided in section 38-885.

Sec. 176. Section 38-886.01, Arizona Revised Statutes, is amended to read:

38-886.01. <u>Ordinary disability retirement; qualifications; amount of pension; conditions for continued payment of pension; definition</u>

A. A member may retire and receive an ordinary disability pension if the local board finds that all of the following conditions occur:

1. An application for disability retirement is filed with the retirement plan or the local board by either the member or the member's participating employer after the disabling incident or within one year after the date the member ceases to be an employee and the member's employment is terminated before the member's normal retirement date by reason of ordinary disability. Timely application for an ordinary disability pension is a prerequisite to receipt of the pension.

2. The member undergoes all medical examinations and tests ordered by the local board and releases to the local board all medical reports and records requested by the local board.

3. The local board determines that an ordinary disability condition exists that meets the requirements for an ordinary disability.

4. The member is not participating in the reverse deferred retirement option plan pursuant to section 38-885.01.

B. The effective date of an ordinary disability retirement shall not predate the date of disability or the date the member ceases to be an employee, and the disability pension payments shall not violate section 38-895.02.

C. Except for a full-time dispatcher or a person who becomes a member of the plan on or after January 1, 2012, the amount of an ordinary disability pension is equal to a fraction times the member's normal retirement pension that is computed pursuant to section 38-885, subsection C as if the member had twenty years of credited service. The fraction is the result obtained by dividing the member's actual years of credited service, not to exceed twenty years of credited service, by twenty. For a full-time dispatcher or a person who becomes a member of the plan on or after January 1, 2012, the amount of an ordinary disability pension is equal to a fraction times the member's normal retirement pension that is computed pursuant to section 38-885, subsection C or E as if the member had twenty-five years of credited service. The fraction is the result obtained by dividing the member's actual years of credited service, not to exceed twenty-five years of credited service, by twenty-five.

D. The local board may require a ~~disabled~~ retired member WITH A DISABILITY to undergo periodic reevaluation of the continuation of ordinary disability. If the ~~disabled~~ retired member WITH A DISABILITY refuses to submit to reevaluation, the local board may suspend payment of the pension. If the refusal continues for one year, the local board may revoke the ~~disabled~~ retired member's WITH A DISABILITY rights to the pension. An ordinary disability pension is terminated if the local board finds the retired member no longer meets the requirements for ordinary disability retirement. This subsection does not apply after a ~~disabled~~ retired member WITH A DISABILITY reaches the member's normal retirement date. The amount of a disability pension shall not be recomputed at a ~~disabled~~ retired member's WITH A DISABILITY normal retirement date.

E. A member does not qualify for an ordinary disability pension if the local board determines that the member's disability results from any of the following:

1. An injury suffered while engaged in a felonious criminal act or enterprise.

2. Service in the armed forces of the United States that entitles the member to a veteran's disability pension.

3. A physical or mental condition or injury that existed or occurred before the member's date of membership in the plan.

F. Local boards shall base a finding of ordinary disability on medical evidence that is obtained by a designated physician or a physician working in a clinic selected by the local board and shall disregard any other medical evidence or opinions. If the local board retains more than one physician or clinic in connection with the application, the local board shall resolve any material conflicts presented in the medical evidence that is presented by the designated physicians or clinics.

G. If an ordinary disability ceases before a retired member reaches the member's normal retirement date and the member is reemployed by an

employer under the plan, the pension payable on the member's subsequent retirement shall be determined as provided in section 38-885.

H. For the purposes of this section, "ordinary disability" means a physical condition that the local board determines will prevent an employee from totally and permanently performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee from totally and permanently engaging in any substantial gainful activity.

Sec. 177. Section 38-904, Arizona Revised Statutes, is amended to read:

38-904. Death benefits; amount

A. If an active or inactive member dies and no pension is payable on account of the member's death, an amount equal to two times the member's accumulated contributions to the retirement plan is payable to the person designated by the deceased member in writing and filed with the board. If the designated person or persons do not survive the deceased member or if the designated person does not claim the benefit, the payment is payable, at the election of the local board, to the designated person's nearest of kin as determined by the local board or to the estate of the deceased member. The beneficiary or person who is claiming to be the nearest of kin shall file a written application in order to receive the refund. For the purposes of this subsection, "inactive member" means a person who previously made contributions to the plan, who has not retired, who is not currently making contributions to the plan and who has not withdrawn contributions from the plan.

B. If the deceased retired or active member does not have an eligible surviving spouse or the pension of the eligible surviving spouse is terminated, each eligible child is entitled to a child's pension. A child's pension terminates if the child is adopted. In the case of a ~~disabled~~ child WITH A DISABILITY, the child's pension terminates if the child ceases to be under a disability or ceases to be a dependent of the surviving spouse or guardian. The amount of the pension of each eligible child is an equal share of the amount of the surviving spouse's pension. The board shall pay the surviving minor or ~~disabled~~ child's WITH A DISABILITY pension to the person who is the legally appointed guardian or custodian of the eligible child until the eligible child reaches eighteen years of age, at which time the eligible child's pension shall be paid directly to the eligible child if the person remains eligible to receive the pension and is not subject to a guardianship or conservatorship due to disability or incapacity. The pension of a ~~disabled~~ child WITH A DISABILITY who is eighteen years of age or older and who is subject to a guardianship or conservatorship due to disability or incapacity shall continue to be paid to the guardian or conservator if the child remains eligible for the pension payment.

Sec. 178. Section 38-956, Arizona Revised Statutes, is amended to read:

38-956. Defined contribution plan; eligibility; contribution; vesting

A. Except as provided in subsection B of this section, an employee of this state or a political subdivision of this state shall be enrolled in the plan established by ASRS pursuant to section 38-955 if all of the following apply:

1. The employee is hired on or after ~~the effective date of this section~~ SEPTEMBER 13, 2013.

2. The employee is not eligible for the Arizona state retirement system pursuant to article 2 of this chapter because the employee is not included in agreements providing for the employee's coverage under the federal old age and survivors insurance system.

3. The employee is not eligible for a statewide retirement system or plan pursuant to article 3, 4 or 6 of this chapter because the employee does not meet the definition of a member in those systems or plans.

4. The employee is engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

B. A retired member of a statewide retirement system or plan pursuant to article 3, 4, or 6 of this chapter who meets the requirements of subsection A of this section may be enrolled in the plan established by ASRS pursuant to section 38-955 at the employer's option.

C. Each employee shall contribute one-half of the total ASRS normal cost plus one and one-half per cent of the employee's compensation, as defined in section 38-711, by salary reduction that shall be deposited in the employee's retirement savings account. Each employer shall contribute one-half of the total ASRS normal cost plus one and one-half per cent of the employee's compensation, as defined in section 38-711, that shall be deposited in the employee's retirement savings account. Employee and employer contributions and earnings on those contributions are immediately vested.

D. Each employee and employer shall also contribute to the long-term disability program pursuant to article 2.1 of this chapter. An employee may receive benefits pursuant to article 2.1 of this chapter if the employee ~~becomes totally disabled~~ DEVELOPS A TOTAL DISABILITY.

E. Notwithstanding the requirements of subsection A of this section, an employee shall not be enrolled under this section if the employee has entered into an agreement with the employer that requires participation in an alternative retirement plan or for other compensation provided in lieu of retirement benefits. The agreement shall specify that it is irrevocable for the remainder of the employee's employment with the employer and shall be executed within two years of initial eligibility under this section.

Sec. 179. Section 40-113, Arizona Revised Statutes, is amended to read:

40-113. Consumer outreach and education

A. In order to transition to competition for electric generation service, the commission's authority is confirmed to develop and oversee a comprehensive public education program regarding electric generation service competition. The program may do the following:

1. Educate retail electric customers about the changes in the electric industry.

2. Provide retail electric customers with accurate and unbiased information so that retail electric customers may make informed choices when participating in the competitive electric generation service market.

3. Encourage public participation in the decision making process relating to establishing a competitive electric industry.

B. The commission may work with interested parties, including community based consumer advocate organizations, to develop and implement an outreach and education plan. This plan may include:

1. The dissemination of information by interactive approaches, brochures or other written materials and mass media outlets.

2. An explanation in clear and plain language of the basic concepts of competitive electric generation service including the following issues:

(a) The effects of competitive electric generation service on retail electric customers and consumer programs.

(b) The basic responsibilities and risks retail electric customers assume with competitive electric generation service.

(c) The basic criteria for selecting a retail electricity supplier or provider of other services.

(d) Where the retail electric customer can find information on consumer protection, customer complaints and dispute resolution programs.

(e) The resources available for additional information including a toll free telephone number.

3. Publicized public forums conducted in several geographical areas of this state to obtain public input and provide opportunities for exchange of questions and answers.

4. Targeted efforts to reach rural, low income, elderly, non-English speaking, ~~disabled~~ PERSONS WITH DISABILITIES, minorities and at-risk populations.

Sec. 180. Section 40-335, Arizona Revised Statutes, is amended to read:

40-335. Persons who may be given free or reduced rates; definitions; carriage during emergency; annual report of reduced rate carriage

A. No common carrier shall, directly or indirectly, issue, give or tender any free or reduced rate of transportation for passengers between points within this state, except to:

1. Its employees, its officers, agents, surgeons, physicians, attorneys at law, and their families.

2. Members of the police and fire departments in cities and towns when on duty, whether uniformed or not.

3. Ministers of religion, traveling secretaries of railroad young men's christian association, inmates of hospitals and charitable institutions and persons exclusively engaged in charitable work.

4. Indigent and homeless persons, when transported by charitable societies or hospitals, and to the necessary agents employed in such transportation.

5. Inmates of the homes for soldiers, including those about to enter and those returning after discharge, and to the boards of managers of such homes.

6. Necessary caretakers of livestock, poultry, milk and fruit while in transit.

7. Employees on sleeping cars~~,~~ AND express cars, and to linemen of telegraph and telephone corporations.

8. Railway mail service employees, post office, custom and immigration inspectors.

9. Newsboys on trains, baggage agents~~,~~ AND witnesses attending any legal investigation in which the common carrier is interested.

10. Persons injured in wrecks and physicians and nurses attending such persons.

B. As used in this section:

1. "Employee" includes furloughed or pensioned employees and persons who ~~became disabled~~ DEVELOPED A DISABILITY or infirm in the service of the carrier, and the remains of a person killed in the employment of the carrier, and former employees traveling to re-enter the service of the carrier.

2. "Families" includes the families of those persons excepted, also the families of persons killed, widows during widowhood, and minor children during minority, of persons who died while in the service of such common carrier.

C. This section shall not be construed to prohibit the interchange of passes for the officers, agents and employees of common carriers and their families, nor to prohibit any common carrier from carrying passengers free to provide relief in cases of general epidemic, pestilence, or other emergency situation.

D. With the consent of the commission, every common carrier may transport free, or at reduced rates:

1. Former soldiers and sailors for the purpose of attending any convention.

2. Contractors and their employees, material or supplies, engaged or used in construction, operation or maintenance work, on the line of the issuing carrier, to the extent only that such free or reduced rate transportation is provided for in the specifications upon which the contract

is based and in the contract itself. Common carriers may also enter into contracts with each other for an exchange of service.

E. Every common carrier shall on the first Monday in July each year, and at other times required by the commission, file with the commission a verified list of all tickets, passes or reduced rate transportation issued for other than actual bona fide money consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amount received therefor, and the reason for issuing them.

Sec. 181. Section 41-151.07, Arizona Revised Statutes, is amended to read:

41-151.07. Library development services

The state library shall:

1. Direct and coordinate statewide public library services.

2. Encourage and assist the development of library services in state and local institutions and governmental units.

3. Compile and disseminate statistics and other data relating to libraries and library services.

4. Give professional advice and assistance in the establishment and operation of county free libraries, municipal or other libraries, or any combinations of county free and municipal or other libraries, and to joint ventures of public and private or nonprofit libraries in this state that make library information available to the public and that request such professional advice and assistance.

5. Develop library services for the blind and ~~physically disabled~~ PERSONS WITH PHYSICAL DISABILITIES regardless of the type of technology used.

6. Perform all other duties necessary or appropriate to the development of statewide library services.

Sec. 182. Section 41-621, Arizona Revised Statutes, is amended to read:

41-621. Purchase of insurance; coverage; limitations; exclusions; definitions

A. The department of administration shall obtain insurance against loss, to the extent it is determined necessary and in the best interests of the state as provided in subsection F of this section, on the following:

1. All state owned buildings, including those of the universities, excluding buildings of community colleges, whether financed in whole or in part by state monies or buildings in which the state has an insurable interest as determined by the department of administration.

2. Contents in any buildings owned, leased or rented, in whole or in part, by or to the state, excluding buildings of community colleges, and reported to the department of administration.

3. The state and its departments, agencies, boards and commissions and all officers, agents and employees thereof and such others as may be necessary to accomplish the functions or business of the state and its departments, agencies, boards and commissions against liability for acts or

omissions of any nature while acting in authorized governmental or proprietary capacities and in the course and scope of employment or authorization except as prescribed by this chapter.

4. All personal property reported to the department of administration, including vehicles and aircraft owned by the state and its departments, agencies, boards and commissions and all non-owned personal property which is under the clear responsibility of this state because of written leases or other written agreements.

5. The state and its departments, agencies, boards and commissions against casualty, use and occupancy and liability losses of every nature except as prescribed by this chapter.

6. Workers' compensation and employers' liability insurance.

7. Design and construction of buildings, roads, environmental remediations and other construction projects.

8. Other exposures to loss where insurance may be required to protect this state and its departments, agencies, boards and commissions and all officers, agents and employees acting in the course and scope of employment or authorization except as prescribed by this chapter.

B. To the extent it is determined necessary and in the best interests of the state, the department of administration shall obtain insurance or provide for state self-insurance against property damage caused by clients and liability coverage resulting from the direct or incidental care of clients participating in programs of the state and its departments, agencies, boards or commissions relating to custodial care. The insurable programs shall include foster care, programs for the ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, an independent living program pursuant to section 8-521 and respite-sitter service programs. The department shall obtain insurance or provide for state self-insurance pursuant to this subsection to protect the clients participating in these programs and individual providers of these program services on behalf of the state and its departments, agencies, boards or commissions. The insurance provided under this subsection does not include medical or workers' compensation coverage for providers. The department may include in its annual budget request pursuant to section 41-622, subsection D a charge for the insurance or self-insurance provided in this subsection. To assist in carrying out the provisions of this subsection, the department shall establish a seven member advisory board in accordance with the following provisions:

1. The board shall consist of three members appointed by the director of the department of administration, at least one of whom shall be a foster parent, two members appointed by the director of the department of economic security, one member appointed by the director of the state department of corrections, and one member appointed by the administrative director of the courts.

2. The board shall elect a chairman from among its members.

3. The board shall hold at least two meetings a year or shall meet at the call of the chairman.

4. Board members shall serve for three year terms.

5. Board members are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

6. The board shall provide advice to the department regarding coverage and administration of the provisions of this subsection and shall assist the department in coordinating its activities pursuant to this subsection with state departments, agencies, boards and commissions.

C. The department of administration may obtain insurance against loss, to the extent it is determined necessary and in the best interests of the state as provided in subsection F of this section for the professional liability of individual physicians and psychiatrists who provide services under a contract with the state department of corrections. Coverage is limited to acts and omissions committed inside a state department of corrections facility while in the performance of the contract and to individual physicians and psychiatrists who demonstrate to the satisfaction of the state department of corrections that they cannot otherwise obtain professional liability coverage for the services required by the contract. The director of the department of administration may impose on the state department of corrections a deductible for each loss that arises out of a professional liability claim pursuant to this subsection. Any changes in deductible amounts established by the director shall be subject to review by the joint legislative budget committee.

D. The department of administration may obtain property, liability, disability or workers' compensation insurance, self-insure or develop risk retention pools to provide for payment of property loss or casualty claims or disability insurance claims against contractors of this state with the approval of the joint legislative budget committee. With respect to insurance, self-insurance or risk retention pools for contractors licensed and contracted to do work for this state, the coverage afforded applies with respect to the conduct of the business entity of that contractor. The pool is available to all contractors regardless of the amount that the state contracted work bears in relation to the amount of nonstate contracted work. The contractor shall be terminated from the pool if the contractor ceases to be a state contractor.

E. The department of administration may determine, in the best interests of the state, that state self-insurance is necessary or desirable and, if that decision is made, shall provide for state self-insurance for losses arising out of state property, liability or workers' compensation claims prescribed by subsection A of this section. If the department of administration provides state self-insurance, such coverage shall be excess over any other valid and collectible insurance. The director of the department of administration may impose on state departments, agencies,

boards and commissions a deductible for each loss that arises out of a property, liability or workers' compensation loss pursuant to this subsection. Any changes in deductible amounts established by the director shall be subject to review by the joint legislative budget committee.

F. In carrying out the provisions of this chapter, the department of administration shall establish and provide the state with some or all of the necessary risk management services, or shall contract for risk management services pursuant to chapter 23 of this title, as the director of the department of administration deems necessary in the best interest of the state, and may, in addition to other specifications of such coverage as deemed necessary, determine self-insurance to be established. The provisions of chapter 23 of this title shall not apply to the department of administration's procurement of insurance to cover losses arising out of state property or liability claims prescribed in subsections A and D of this section or excess loss insurance for the state's workers' compensation liability for individual or aggregate claims, or both, in such amounts and at such primary retention levels as the department of administration deems in the best interest of the state. In purchasing insurance to cover losses arising out of state property or liability claims prescribed by subsection A of this section, the department of administration is not subject to the provisions of title 20, chapter 2, article 5.

G. No successful bidder for risk management services pursuant to this section shall be entitled to receive directly or indirectly any sales commission, contingent commission, excess profit commission, or other commissions, or anything of value, as payment for the risk management services except those amounts received directly from this state as payment for the risk management services.

H. The department of administration shall pay for purchased risk management services, premiums for insurance on state property and state liability and workers' compensation pursuant to the provisions of this chapter.

I. A state officer, agent or employee acting in good faith, without wanton disregard of his statutory duties and under the authority of an enactment that is subsequently declared to be unconstitutional, invalid or inapplicable, is not personally liable for an injury or damage caused thereby except to the extent that he would have been personally liable had the enactment been constitutional, valid and applicable.

J. A state officer, agent or employee, except as otherwise provided by statute, is not personally liable for an injury or damage resulting from his act or omission in a public official capacity where the act or omission was the result of the exercise of the discretion vested in him if the exercise of the discretion was done in good faith without wanton disregard of his statutory duties.

K. The state and its departments, agencies, boards and commissions are immune from liability for losses arising out of a judgment for willful and wanton conduct resulting in punitive or exemplary damages.

L. The following exclusions shall apply to subsections A, B and E of this section:

1. Losses against this state and its departments, agencies, boards and commissions that arise out of and are directly attributable to an act or omission determined by a court to be a felony by a person who is provided coverage pursuant to this article unless the state knew of the person's propensity for that action, except those acts arising out of the operation or use of a motor vehicle.

2. Losses arising out of contractual breaches.

M. If self-insurance coverage is determined to exist, the attorney general, with funds provided by the department of administration, shall provide for the defense, either through his office or by appointment of outside legal counsel, of the state and its departments, agencies, boards and commissions and all officers, agents and employees thereof and such others as are insured by the department of administration for or on account of their acts or omissions covered pursuant to this chapter. All state departments, agencies, boards and commissions, all officers, agents and employees thereof and such others as are insured by the department of administration shall cooperate fully with the attorney general and department of administration in the defense of claims arising pursuant to this chapter.

N. A claim for liability damages made pursuant to this chapter may be settled and payment made up to the amount of twenty-five thousand dollars or such higher limit as may be established by the joint legislative budget committee with the approval of the director of the department of administration. A claim over the amount of twenty-five thousand dollars up to fifty thousand dollars or such higher limit as may be established by the joint legislative budget committee may be settled and payment made with the approval of the director of the department of administration and the attorney general. Any claim over the amount of fifty thousand dollars or such higher limit as may be established by the joint legislative budget committee may be settled and payment made with the approval of the director of the department of administration, the attorney general and the joint legislative budget committee. If it is in the best interest of this state, the joint legislative budget committee may establish higher settlement limits. Any settlements involving amounts in excess of fifty thousand dollars or such higher limit as may be established by the joint legislative budget committee shall be approved by the department of administration, the attorney general and the joint legislative budget committee pursuant to the authority granted. The settlement of liability claims shall be solely the authority of the department of administration, the attorney general and the joint legislative budget committee. No state department, agency, board or commission or any officer, agent or employee of this state may voluntarily make any payment,

assume any obligation, incur any expense or maintain the individual right of consent for liability claims made pursuant to this chapter except as provided by this section.

O. Neither the authority provided by this section to insure, nor the exercise of such authority, shall:

1. Impose any liability on this state or the departments, agencies, boards and commissions or any officers, agents and employees of this state unless such liability otherwise exists.

2. Impair any defense this state or the departments, agencies, boards and commissions or any officers, agents and employees of this state otherwise may have.

P. The department of administration shall pay, on behalf of any state officer, agent or employee, any damages, excluding punitive damages, for which the officer, agent or employee becomes legally responsible if the acts or omissions resulting in liability were within the officer's, agent's or employee's course and scope of employment. The department of administration may pay for all damages however designated which the officer, agent or employee becomes legally responsible for if the acts or omissions resulting in liability are determined by the director of the department of administration to be within the person's course and scope of employment.

Q. The department of administration shall adopt such rules as are deemed necessary to carry out, implement and limit the provisions of this chapter.

R. For the purposes of determining whether a state officer, agent or employee is entitled to coverage under this chapter, "within the course and scope of employment or authorization" means:

1. The acts or omissions that the state officer, agent or employee is employed or authorized to perform.

2. The acts or omissions of the state officer, agent or employee occur substantially within the authorized time and space limit.

3. The acts or omissions are activated at least in part by a purpose to serve this state or its departments, agencies, boards or commissions.

S. To the extent it is determined necessary and in the best interest of this state, the department of administration may obtain design and construction insurance or provide for self-insurance against property damage caused by this state, its departments, agencies, boards and commissions and all officers and employees of this state in connection with the construction of public works projects. Workers' compensation liability insurance may be purchased to cover both general contractors and subcontractors doing work on a specific contracted work site. The department may include in its annual budget request, pursuant to section 41-622, subsection D, the cost of the insurance purchased or provided. In connection with the construction of public works projects, the department of administration may also use an owner-controlled or wrap-up insurance program if all of the following conditions are met:

1. The total cost of the project is over fifty million dollars.

2. The program maintains completed operations coverage for a term during which coverage is reasonably commercially available as determined by the director of the department of insurance, but in no event for less than three years.

3. Bid specifications clearly specify for all bidders the insurance coverage provided under the program and the minimum safety requirements that shall be met.

4. The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor believes is necessary for protection from any liability arising out of the contract. The cost of the additional insurance shall not be passed through to this state on a contract bid.

5. The program does not include surety insurance.

T. The state may purchase an owner-controlled or wrap-up policy that has a deductible or self-insured retention as long as the deductible or self-insured retention does not exceed one million dollars.

U. For the purposes of subsections S and T of this section:

1. "Owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover this state and all of the contractors, subcontractors, architects and engineers on a specified contracted work site for purposes of general liability, property damage and workers' compensation.

2. "Specific contracted work site" means construction being performed at one site or a series of contiguous sites separated only by a street, roadway, waterway or railroad right-of-way, or along a continuous system for the provision of water and power.

V. Notwithstanding any other statute the department of administration may:

1. Limit the liability of a person who contracts to provide goods, software or other services to this state.

2. Allow the person to disclaim incidental or consequential damages.

3. Indemnify or hold harmless any party to the contract.

Sec. 183. Section 41-901, Arizona Revised Statutes, is amended to read:

41-901. Governor's authority

The governor shall have charge and control of the Arizona pioneers' home, the state hospital for ~~disabled~~ miners WITH DISABILITIES, the state prison and prison farm and other state institutions the management of which is not otherwise provided by law.

Sec. 184. Section 41-921, Arizona Revised Statutes, is amended to read:

41-921. Establishing home; location

A home for aged and infirm Arizona pioneers is established and shall be known as the "Arizona pioneers' home". For purposes prescribed in section 25 of the enabling act, the pioneers' home shall be designated as the hospital

for ~~disabled~~ miners WITH DISABILITIES and shall have the same exemption provided to the pioneers' home pursuant to section 36-402. The home shall be maintained at or near Prescott, Arizona.

Sec. 185. Section 41-941, Arizona Revised Statutes, is amended to read:

41-941. Location; superintendent; claims

A. There shall be a state hospital for ~~disabled~~ miners WITH DISABILITIES as a separate facility for the benefit of ~~disabled~~ miners WITH DISABILITIES at the Arizona pioneers' home at Prescott which shall be managed by the governor.

B. The superintendent of the Arizona pioneers' home shall serve as superintendent of the miner's hospital and, subject to chapter 4, article 4 of this title, may appoint assistants and employees and prescribe their duties, subject to approval of the governor.

C. Claims for salaries and expenses authorized by this article shall be presented and paid as other state claims.

Sec. 186. Section 41-942, Arizona Revised Statutes, is amended to read:

41-942. Qualifications for admission to hospital; definitions

A. A person, under the order of the governor, shall be admitted to the hospital for ~~disabled~~ miners WITH DISABILITIES who:

1. Has been a resident while in the occupation of mining in this state.

2. Is a citizen or legal resident of the United States.

3. Has reached the age of sixty years or more, and is financially unable to support himself, or has suffered incapacitating injuries arising from and in the course of mining.

B. Based on available space and funding, the governor may approve a person for admission to the hospital for ~~disabled~~ miners WITH DISABILITIES who has not yet reached the age of sixty years but otherwise qualifies for admission under subsection A.

C. For the purposes of this section:

1. "Claim" has the same meaning prescribed in section 27-301.

2. "Mine" has the same meaning prescribed in section 27-301.

3. "Mining":

(a) Has the same meaning prescribed in section 27-301.

(b) Does not include performing executive, administrative, support or clerical functions for the owner or operator of a mine, unless a person who performs executive, administrative, support or clerical functions for the owner or operator of the mine had significant environmental exposure to mining activities~~,~~ that could be detrimental to a person's health.

(c) Does not include activities performed by an owner of a private mining claim who did not actually work the claim.

Sec. 187. Section 41-983.02, Arizona Revised Statutes, is amended to read:

41-983.02. Arizona arts program

A. There is established an Arizona arts program to be administered by the Arizona commission on the arts. The purpose of the program shall be to advance and to foster the arts in Arizona through grants from the Arizona arts trust fund.

B. The commission shall establish rules for the administration of the program including grant applications and criteria to be utilized when evaluating applications. Such criteria shall include but shall not be limited to artistic quality, creativity, potential public exposure and public benefit, and the ability of the recipient to properly administer funds granted. The commission shall further establish criteria to assure all of the following:

1. A portion of the funds is granted to organizations representing ~~handicapped~~ persons WITH DISABILITIES.

2. A portion of the funds is granted to artists who are members of racial or ethnic minorities.

3. A portion of the funds is granted to organizations representing rural areas.

4. Recipient arts organizations include on their governing boards members of racial or ethnic minorities.

C. All grants shall be authorized by a majority vote of the members of the commission.

D. Each grant recipient shall submit a detailed report at least annually to the commission outlining the uses and expenditure of any funds granted from the Arizona arts trust fund. Recipients shall agree to any auditing requirements relating to the use of grant funds as set forth by the commission.

Sec. 188. Section 41-1481, Arizona Revised Statutes, is amended to read:

41-1481. Filing charges; investigation; findings; conciliation; compliance proceedings; appeals; attorney fees; violation; classification

A. A charge under this section shall be filed within one hundred eighty days after the alleged unlawful employment practice occurred. A charge is deemed filed upon receipt by the division from or on behalf of a person claiming to be aggrieved or, if filed by a member of the division, when executed by such member upon oath or affirmation. A charge is deemed filed by or on behalf of a person claiming to be aggrieved if received from the United States equal employment opportunity commission. A charge shall be in writing upon oath or affirmation and shall contain such information, including the date, place and circumstances of the alleged unlawful employment practice, and be in such form as the division requires. Charges shall not be made public by the division.

B. Whenever a charge is filed by or on behalf of a person claiming to be aggrieved or by a member of the division, referred to as the charging party, alleging that an employer, employment agency, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, has engaged in an unlawful employment practice, the division shall serve notice of and a copy of the charge on such employer, employment agency, labor organization or joint labor-management committee, referred to as the respondent, within ten days and shall make an investigation of the charge. If the division determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall enter an order determining the same and dismissing the charge and shall notify the charging party and the respondent of its action. If the division determines after such investigation that there is reasonable cause to believe that the charge is true, it shall enter an order containing its findings of fact and shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation and persuasion. Any party to such informal proceeding may be represented by counsel. Counsel need not be a member of the state bar if he is licensed to practice law in any other state or territory of the United States. Nothing said or done during and as a part of such informal endeavors may be made public by the division or its officers or employees or used as evidence in a subsequent proceeding without the written consent of the persons concerned. If a civil action resulting from a charge is commenced in any federal or state court, evidence collected by or submitted to the division during the investigation of the charge and the source of the evidence shall be subject to discovery by the parties to the civil action. Any person who makes public information in violation of this subsection is guilty of a class 1 misdemeanor. The division shall make its determination on reasonable cause as promptly as possible and as far as practicable not later than sixty days from the filing of the charge. If more than two years have elapsed after the alleged unlawful employment practice occurred, and if the charging party has received a notice of right to sue, the division may cease investigation of a charge without reaching a determination.

C. All conciliation agreements shall provide that the charging party waives, releases and covenants not to sue the respondent or claim against the respondent in any forum with respect to the matters which were alleged as charges filed with the division, subject to performance by the respondent of the promises and representations contained in the conciliation agreement. The charging party or the respondent may prepare a conciliation agreement which the division shall submit to the other party and which, if accepted by the other party, shall be accepted by the division.

D. If within thirty days after the division has made a determination that reasonable cause exists to believe that the charge is true the division has not accepted a conciliation agreement to which the charging party and the

respondent are parties, the division may bring a civil action against the respondent, other than the state, named in the charge. The charging party shall have the right to intervene in a civil action brought by the division. If a charge filed with the division pursuant to subsection A of this section is dismissed by the division or if within ninety days from the filing of such charge the division has not filed a civil action under this section or has not entered into a conciliation agreement with the charging party, the division shall so notify the charging party. Within ninety days after the giving of such notice a civil action may be brought against the respondent named in the charge by the charging party or, if such charge was filed by a member of the division, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. In no event shall any action be brought pursuant to this article more than one year after the charge to which the action relates has been filed. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs or security. Upon timely application, the court may in its discretion permit the division to intervene in civil actions in which the state is not a defendant upon certification that the case is of general public importance. Upon request the court may stay further proceedings for not more than sixty days pending the further efforts of the parties or the division to obtain voluntary compliance.

E. Whenever a charge is filed with the division and the division concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this article or article 4 of this chapter, the division may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the supreme court rules of civil procedure. The court having jurisdiction over such proceedings shall assign such action for hearing at the earliest practicable date and cause the action to be expedited in every way.

F. The court shall assign any action brought under this article for hearing at the earliest practicable date and cause the action to be in every way expedited. If the action has not been scheduled for trial within one hundred twenty days after issue has been joined, the judge may appoint a master pursuant to rule 53 of the supreme court rules of civil procedure.

G. If the court finds that the defendant has intentionally engaged in or is intentionally engaging in an unlawful employment practice alleged in the complaint, the court may enjoin the defendant from engaging in such unlawful employment practice and order such affirmative action as may be appropriate. Affirmative action may include, but is not limited to, reinstatement or hiring of employees with or without back pay payable by the employer, employment agency or labor organization responsible for the

unlawful employment practice or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of the charge with the division. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall reduce the back pay otherwise allowable. No order of the court shall require the admission or reinstatement of an individual as a member of a union or the hiring, reinstatement or promotion of an individual as an employee or the payment to him of any back pay if such individual was refused admission, suspended or expelled or was refused employment or advancement or was suspended or discharged for any reason other than discrimination on account of race, color, religion, sex, age, ~~handicap~~ DISABILITY or national origin or a violation of section 41-1464.

H. In any case in which an employer, employment agency or labor organization fails to comply with an order of a court issued in a civil action brought under this section, a party to the action or the division upon the written request of a person aggrieved by such failure may commence proceedings to compel compliance with such order.

I. Any civil action brought under this section and any proceedings brought under subsection H of this section are subject to appeal as provided in sections 12-120.21, 12-120.22 and 12-120.24.

J. In any action or proceeding under this section the court may allow the prevailing party, other than the division, a reasonable attorney's fee as part of the costs.

Sec. 189. Section 41-1491.19, Arizona Revised Statutes, is amended to read:

41-1491.19. Discrimination due to disability; definitions

A. A person may not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of:

1. That buyer or renter.

2. A person residing in or intending to reside in that dwelling after it is sold, rented or made available.

3. A person associated with that buyer or renter.

B. A person may not discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:

1. That person.

2. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available.

3. A person associated with that person.

C. Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

D. Compliance with the appropriate requirements of the fair housing accessibility guidelines established by the United States department of housing and urban development satisfies the requirements of subsection E, paragraph 3, subdivision (c).

E. For the purposes of this section, "discrimination" includes:

1. A refusal to permit, at the expense of the ~~disabled~~ person WITH A DISABILITY, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, provided that, in the case of a renter, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing, to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

2. A refusal to make reasonable accommodations in rules, policies, practices or services if the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty months after the date of enactment of the federal fair housing amendments act of 1988 (P.L. 100-430), a failure to design and construct those dwellings in a manner that includes all of the following:

(a) The public use and common use portions of the dwellings are readily accessible to and usable by ~~disabled~~ persons WITH A DISABILITY.

(b) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by ~~disabled~~ persons WITH A DISABILITY in wheelchairs.

(c) All premises within the dwellings contain the following features of adaptive design:

(i) An accessible route into and through the dwelling.

(ii) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

(iii) Reinforcements in bathroom walls to allow later installation of grab bars.

(iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

F. As used in this section, "covered multifamily dwellings" means buildings consisting of four or more units if the buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

Sec. 190. Section 41-1543, Arizona Revised Statutes, is amended to read:

41-1543. <u>Application criteria</u>

The chief executive officer pursuant to the guidelines established by the governor's council on workforce policy shall consider the following before any award of monies pursuant to this article:

1. The training cost per employee.
2. The ability to leverage other job training resources.
3. The quality of jobs resulting from the training proposal, including a requirement that a business receiving monies pursuant to this article pay compensation at least equal to the qualifying wage rate per county that is prescribed for the year in which the award is considered.
4. The use of the local labor force, dislocated workers, the chronically unemployed and other special populations, including ~~the disabled~~ PERSONS WITH DISABILITIES and veterans.
5. The location or expansion of the business in rural or economically depressed areas.
6. The diversity provided to the economy and the promotion of existing and expanding businesses and businesses undergoing economic conversion.
7. The number of jobs resulting from the training proposal.
8. The ability to expand cluster industries. For purposes of this paragraph, "cluster industries" means concentrations of firms across several industries that share common economic foundation needs.
9. The extent to which the benefit package including health insurance reflects the needs of the employees.

Sec. 191. Section 41-1973, Arizona Revised Statutes, is amended to read:

41-1973. Compensation of workers; proportion of workers required to be legally blind; workers as state employees; definition

A. The department of economic security may compensate blind and other workers for their work in the training centers, workshops and home industries authorized in section 41-1972, subsections A and B, but a minimum of seventy-five per cent of those workers in each of the training centers, workshops and home industries shall be legally blind.

B. Persons participating in activities authorized by this article and determined by the department of economic security to be blind or ~~otherwise handicapped persons~~ TO HAVE OTHER DISABILITIES are state employees but are not entitled to the benefits of the merit system procedures pertaining to the recruitment and retention of regular administrative employees of the department.

C. For purposes of this section "legally blind" means any person who:
1. Has no vision or visual acuity.
2. Has central visual acuity of 20/200 or less in the better eye, with the best correction by single magnification.
3. Has a field defect in which the peripheral field has been contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees.

Sec. 192. Section 41-1974, Arizona Revised Statutes, is amended to read:

41-1974. Arizona industries for the blind; labor; medical certification requirements

A minimum of seventy-five per cent of all persons involved in direct labor shall be medically certified as PERSONS WHO ARE blind and ~~severely disabled~~ PERSONS WITH SEVERE DISABILITIES.

Sec. 193. Section 41-2636, Arizona Revised Statutes, is amended to read:

41-2636. Procurement from Arizona industries for the blind, certified nonprofit agencies that serve individuals with disabilities and Arizona correctional industries; definitions

A. The director shall appoint a state set-aside committee to determine those materials and services that are provided, manufactured, produced and offered for sale by Arizona industries for the blind, certified nonprofit agencies that serve individuals with disabilities and Arizona correctional industries and that satisfy the requirements of state governmental units and to establish a fair market price for all approved materials and services offered for sale that meet these requirements. Membership shall include the assistant director for rehabilitation services in the department of economic security or the assistant director's designee and a private sector businessperson appointed by the governor who contracts or employs persons with disabilities in the private sector. At each quarterly meeting the director shall report on new procurement requests or renewal of existing procurement requests for state purchases from lists supplied by set-aside providers and that are within the capability of and that can be supplied by the entities that are prescribed in this section. To qualify for set-aside contracts, certified nonprofit agencies must maintain an employment ratio of at least sixty per cent of program employees with significant disabilities.

B. Materials and services from Arizona correctional industries shall be presented to the committee for approval. Office products, vinyl binders and furniture refurbishing services shall be exempt from this article. State governmental units shall purchase office products, vinyl binders and furniture from Arizona correctional industries if each of the following applies:

1. Such materials and services are readily available.

2. Such materials and services are capable of timely delivery.

3. Such materials and services are of equal quality and price for these same materials and services in the private sector.

C. State governmental units shall purchase approved materials and services if such materials and services are readily available.

D. Notwithstanding the requirements of section 41-2532, state governmental units and local public procurement units may purchase or contract for any products, materials and services directly from Arizona

industries for the blind, certified nonprofit agencies that serve individuals with disabilities and Arizona correctional industries without competitive bidding if the delivery and quality of the products, materials or services meet the unit's reasonable requirements.

E. All state governmental units shall endeavor to set aside at least one per cent of their new purchases or contracts for any products, materials and services from the entities that are prescribed in subsection D of this section, except for contracts for care and services for clients of the department of economic security or the department of health services. The department shall communicate with each state governmental unit regarding its responsibility to comply with this subsection. The committee shall meet quarterly to report progress in increasing state governmental purchases or contracts with the entities that are prescribed in subsection D of this section. The committee shall compile quarterly reports detailing new purchases or contracts that are entered into pursuant to this subsection to the director, each committee member, the governor, the president of the senate and the speaker of the house of representatives.

F. The committee shall meet during the first month of each fiscal year to determine which articles, products or services Arizona correctional industries, certified nonprofit agencies that serve individuals with disabilities and Arizona industries for the blind should continue to manufacture for state use, to advise such agencies and industries of any changes in specifications and to identify new articles or products that should be manufactured or could be eligible for procurement.

G. For the purposes of this section:

1. "Certified nonprofit agency that serves individuals with disabilities" means a nonprofit activity center that serves individuals with significant disabilities and that satisfies all of the following:

(a) Is organized under the laws of this state or another state, is operated in the interest of ~~disabled~~ individuals WITH DISABILITIES and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual.

(b) Complies with any applicable occupational health and safety standard required by the laws of the United States and this state.

2. "~~Disabled individual~~ INDIVIDUALS WITH DISABILITIES" means an individual who, because of the nature of the individual's disabilities, is not able to fully participate in competitive employment and for whom specialized employment and training ~~is~~ ARE necessary by a qualified nonprofit organization through the department of economic security or the department of health services.

Sec. 194. Section 41-2821, Arizona Revised Statutes, is amended to read:

41-2821. Treatment of mentally ill and youth with developmental disabilities

A. The department of juvenile corrections and the department of health services shall develop an intergovernmental agreement to define their respective roles in providing services to mentally ill youth who are committed to the department of juvenile corrections. The agreement shall designate specific procedures for providing services to committed youth and shall provide a means of sharing funding, expertise and training opportunities. Each department shall adopt rules to implement the agreement.

B. The department of juvenile corrections and the department of economic security shall develop an intergovernmental agreement to define their respective roles in providing services to ~~developmentally disabled~~ youth WITH DEVELOPMENTAL DISABILITIES who are committed to the department of juvenile corrections. The agreement shall designate specific procedures for providing services to committed youth and shall provide a means of sharing funding, expertise and training opportunities. Each department shall adopt rules to implement the agreement.

Sec. 195. Section 41-3016.28, Arizona Revised Statutes, is amended to read:

41-3016.28. Arizona pioneers' home; miners with disabilities hospital; termination July 1, 2016

A. The Arizona pioneers' home and the ~~disabled~~ miners WITH DISABILITIES hospital terminate on July 1, 2016.

B. Title 41, chapter 5, articles 2 and 3 are repealed on January 1, 2017.

Sec. 196. Section 41-3801, Arizona Revised Statutes, is amended to read:

41-3801. Human rights committee on persons with developmental disabilities

A. The human rights committee on ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES is established in the department of economic security to promote the rights of clients who are receiving developmental disabilities services from the department pursuant to title 36, chapter 5.1.

B. The committee shall be organized pursuant to this section and the requirements of section 41-3804.

C. The director of the department of economic security may establish additional committees for each district office established pursuant to section 41-1961 or to oversee the activities of any service provider.

D. Each human rights committee established pursuant to this section shall consist of at least seven and not more than fifteen members appointed by the director of the department of economic security with expertise in at least one of the following areas:

1. Psychology.

2. Law.
3. Medicine.
4. Education.
5. Special education.
6. Social work.

E. Each human rights committee shall include at least two parents of children who receive services from the division of developmental disabilities.

Sec. 197. Section 41-3953, Arizona Revised Statutes, is amended to read:

41-3953. Department powers and duties

A. The department is responsible for establishing policies, procedures and programs that the department is authorized to conduct to address the affordable housing issues confronting this state, including housing issues of low income families, moderate income families, housing affordability, special needs populations and decaying housing stock. Among other things, the department shall provide to qualified housing participants and political subdivisions of this state financial, advisory, consultative, planning, training and educational assistance for the development of safe, decent and affordable housing, including housing for low and moderate income households.

B. Under the direction of the director, the department shall:

1. Establish guidelines applicable to the programs and activities of the department for the construction and financing of affordable housing and housing for low and moderate income households in this state. These guidelines shall meet or exceed all applicable state or local building and health and safety code requirements and, if applicable, the national manufactured home construction and safety standards act of 1974 and title VI of the housing and community development act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 96-153 and 96-339). Guidelines established pursuant to this paragraph do not apply to the department's activities prescribed in section 35-726, subsection E.

2. Provide staff support to the Arizona housing commission and coordinate its activities.

3. Accept and allocate any monies as from time to time may be appropriated by the legislature for the purposes set forth in this article.

4. Perform other duties necessary to administer this chapter.

5. Perform the duties prescribed in sections 35-726, 35-728 and 35-913. ~~and chapter 4.3 of this title.~~

6. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with the agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

7. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

8. Provide information and advice on request of any local, state or federal agencies, private persons and business enterprises on matters within the scope of department activities.

9. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

10. Make annual reports to the governor and the legislature on its activities, including the geographic location of its activities, its finances and the scope of its operations.

C. Under the direction of the director, the department may:

1. Assist in securing construction and mortgage financing from public and private sector sources.

2. Assist mortgage financing programs established by industrial development authorities and political subdivisions of this state.

3. Assist in the acquisition and use of federal housing assistance programs pertinent to enhance the economic feasibility of a proposed residential development.

4. Assist in the compliance of a proposed residential development with applicable federal, state and local codes and ordinances.

5. Prepare and publish planning and development guidelines for the establishment and delivery of housing assistance programs.

6. Contract with a federal agency to carry out financial work on the federal agency's behalf and accept payment for the work.

7. Subcontract for the financial work prescribed in paragraph 6 of this subsection and make payments for that subcontracted work based on the expectation that the federal agency will pay for that work.

8. Accept payment from a federal agency for work prescribed in paragraph 6 of this subsection and deposit those payments in the Arizona department of housing program fund established by section 41-3957.

9. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

10. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

11. Use any media of communication, publication and exhibition in the dissemination of information, advertising and publicity in any field of its purposes, objectives or duties.

12. Adopt rules deemed necessary or desirable to govern its procedures and business.

13. Contract with other agencies in furtherance of any department program.

14. Use monies, facilities or services to provide contributions under federal or other programs that further the objectives and programs of the department.

15. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for the conduct of programs that are consistent with the general purposes and objectives of this article and deposit these monies in the Arizona department of housing program fund established by section 41-3957.

16. Establish and collect fees and receive reimbursement of costs in connection with any programs or duties performed by the department and deposit the fees and cost reimbursements in the Arizona department of housing program fund established by section 41-3957.

17. Provide staff support to the Arizona housing finance authority and coordinate its activities.

D. For the purposes of this section, the department is exempt from chapter 23 of this title.

E. The department is the designated state public housing agency as defined in the United States housing act of 1937 (42 United States Code sections 1401 through 1440) for the purpose of accepting federal housing assistance monies and may participate in the housing assistance payments program. Federal monies may be secured for all areas of this state subject only to the limitations prescribed in subsection F of this section.

F. For areas of this state where an existing public housing authority has not been established pursuant to section 36-1404, subsection A, the department acting as a public housing agency may undertake all activities under the section 8 tenant-based rental housing assistance payment program, except that the department shall not undertake a section 8 tenant-based rental housing assistance payment program within the boundaries of a city, town or county unless authorized by resolution of the governing body of the city, town or county. If the department accepts monies for a section 8 tenant-based rental housing assistance payment program for areas of this state where an existing public housing authority has been established pursuant to section 36-1404, subsection A, the department shall only accept and secure federal monies to provide housing for the seriously mentally ill or other ~~disabled~~ populations WITH DISABILITIES. The department may accept and secure federal monies for undertaking all contract administrator activities authorized under a section 8 project-based rental housing assistance payment program in all areas of this state and this participation does not require the authorization of any local governing body.

G. The department shall not itself directly own, construct, operate or rehabilitate any housing units, except as may be necessary to protect the department's collateral or security interest arising out of any department programs.

H. Notwithstanding any other provision of this section, the department may obligate monies as loans or grants applicable to programs and activities

of the department for the purpose of providing housing opportunities for low or moderate income households or for housing affordability or to prevent or combat decaying housing stock. Unless otherwise required by federal or state law, any loan repayments shall be deposited in the Arizona department of housing program fund established by section 41-3957.

I. For any construction project financed by the department pursuant to subsection C, except for contract administration activities in connection with the project-based section 8 program, the department shall notify a city, town, county or tribal government that a project is planned for its jurisdiction and, before proceeding, shall seek comment from the governing body of the city, town, county or tribal government or an official authorized by the governing body of the city, town, county or tribal government. The department shall not interfere with or attempt to override the local jurisdiction's planning, zoning or land use regulations.

Sec. 198. Section 41-3954, Arizona Revised Statutes, is amended to read:

41-3954. Arizona housing commission; definitions

A. An Arizona housing commission is established consisting of:

1. The following members who are appointed by the governor:

(a) One representative of a rural city government.

(b) One representative of a nonrural city government from a county with a population of less than one million five hundred thousand persons but more than five hundred thousand persons.

(c) One representative of a nonrural city government from a county with a population of one million five hundred thousand or more persons.

(d) One representative of a rural county government.

(e) One representative of a nonrural county government from a county with a population of less than one million five hundred thousand persons but more than five hundred thousand persons.

(f) One representative of a nonrural county government from a county with a population of one million five hundred thousand or more persons.

(g) One representative of a tribal government.

(h) One representative of a tribal housing department.

(i) One representative of the banking or lending community.

(j) One representative of the special needs population.

(k) One representative of a statewide housing association.

(l) Two representatives of the private sector of the real estate industry.

(m) Three representatives from the private sector of the housing industry, one of whom represents home builders, one of whom represents multifamily housing developers and one of whom represents licensed manufactured home manufacturers or dealers.

(n) Two representatives of nonprofit organizations that work on housing or other related issues, one of whom represents a nonprofit organization that works in a county with a population of less than one

million five hundred thousand persons but more than five hundred thousand persons and one of whom represents a nonprofit corporation that works in a rural county.

(o) Two representatives of the general public, one of whom is from a county with a population of less than one million five hundred thousand persons but more than five hundred thousand persons and one of whom is from a rural county. These members shall not be members of the board or staff of, or have any direct or indirect benefit from the dealings of, a corporation formed under title 35, chapter 5, article 1.

(p) One representative of an organization that works on farmworker housing issues.

2. The director or the director's designee. The director or the director's designee may only vote to break a tie vote of the other members.

3. The speaker of the house of representatives and the president of the senate or their designees who serve as advisory members. For purposes of this paragraph, "advisory members" means members who give advice to other members of the commission but who are not eligible to vote and are not members for the purpose of determining whether a quorum is present.

B. The commission shall:

1. Recommend housing strategic planning and policy.

2. Coordinate public and private housing finance programs.

3. Provide recommendations for better private and public partnerships and initiatives for developing housing.

4. Review state housing programs.

5. Encourage the development of housing opportunities for special needs populations.

6. Advise the governor, the legislature, state agencies and city, county and tribal governmental bodies on the public and private actions that affect the cost or supply of housing.

C. The members shall elect a chairperson and a vice-chairperson annually.

D. The commission shall meet at least two times each year in a county with a population of less than one million five hundred thousand persons but more than five hundred thousand persons and at least one time each year in a rural county.

E. Members appointed pursuant to subsection A, paragraph 1:

1. Serve four year terms.

2. Are not eligible to receive compensation but are eligible to receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.

F. The director of the Arizona department of housing serves as executive director of the commission.

G. For purposes of this section:

1. "Rural city" means either:

(a) A city or town with a population of less than fifty thousand persons in a county with a population of five hundred thousand persons or less.

(b) A city or town within a census county division with a population of less than fifty thousand persons in a county with a population of more than five hundred thousand persons.

2. "Rural county" means a county with a population of five hundred thousand persons or less.

3. "Special needs population" includes the homeless, the seriously mentally ill, ~~the physically disabled~~ PERSONS WITH PHYSICAL DISABILITIES, individuals infected with the human immunodeficiency virus, the elderly or other populations with specialized housing needs.

Sec. 199. Title 41, Arizona Revised Statutes, is amended by adding chapter 51, to read:

CHAPTER 51

PERSONS WITH DISABILITIES

ARTICLE 1. GENERAL PROVISIONS

41-5101. Persons with disabilities; usage

THIS STATE SHALL USE THE TERM "PERSONS WITH DISABILITIES" IN ALL LAWS, RULES, PUBLICATIONS, ORDERS, ACTIONS, PROGRAMS, POLICIES AND SIGNAGE. THIS STATE SHALL REVISE LAWS, RULES, PUBLICATIONS, ORDERS, ACTIONS, PROGRAMS, POLICIES AND SIGNAGE TO USE THE TERM "PERSONS WITH DISABILITIES" ONLY WHEN UPDATES ARE OTHERWISE NECESSARY.

Sec. 200. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2013, first special session, chapter 9, section 5 and Laws 2013, first regular session, chapter 120, section 1 and chapter 233, section 1, is amended to read:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity that is properly included in any other business classification that is taxable under this article.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

14. Sales to nonresidents of this state for use outside this state if the vendor ships or delivers the tangible personal property out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person who is engaged in business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection Q of this section.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind~~,~~ AND visually impaired ~~and multihandicapped~~ children AND CHILDREN WITH MULTIDISABILITIES from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for ~~mentally or physically handicapped~~

persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL DISABILITY as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of tangible personal property that is shipped or delivered directly to a destination outside the United States for use in that foreign country.

36. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

37. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture

paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

39. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

40. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

41. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

42. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

43. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

45. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

46. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

47. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

48. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

49. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

50. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

51. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

52. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

53. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

54. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

55. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

56. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

57. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

58. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

59. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

60. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in

social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail

classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Owner builder sales classification.
10. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

M. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

N. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

O. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

P. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

Q. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

Sec. 201. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2013, chapter 255, section 13, is amended to read:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

2. Services rendered in addition to selling tangible personal property at retail.

3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

6. Business activity that is properly included in any other business classification that is taxable under this article.

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for

manufacture into jewelry or works of art is subject to the tax. For the purposes of this paragraph:

(a) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(b) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the Constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind~~,~~ AND visually impaired ~~and multihandicapped~~ children AND CHILDREN WITH MULTIDISABILITIES from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075 or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

(a) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(b) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for ~~mentally or physically handicapped~~ persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce

agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL DISABILITY as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the

owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

53. Through August 31, 2014, sales of Arizona centennial medallions by the historical advisory commission.

54. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

55. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

56. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

57. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation

regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and

development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

H. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

I. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or

horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Restaurant classification.

J. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

M. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

N. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

O. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

P. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

Q. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues

collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.

2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection J of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use

from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract. For the purposes of this paragraph, "contractor" has its ordinary and common meaning ~~and does not have the meaning prescribed by section 42-5001~~.

Sec. 202. Section 42-5159, Arizona Revised Statutes, as amended by Laws 2013, first special session, chapter 9, section 7, is amended to read:

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property which directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel which is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements which are intended for sale with newspapers published in this state and which have already been subjected to an excise tax under the laws of another state in the United States which equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind~~,~~ AND visually impaired ~~and multihandicapped~~ children AND CHILDREN WITH MULTIDISABILITIES from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for ~~mentally or physically handicapped~~ persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which

are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer which is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL DISABILITY as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property which is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead

expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the

qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation

regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in

social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

Sec. 203. Section 42-5159, Arizona Revised Statutes, as amended by Laws 2013, chapter 255, section 17, is amended to read:

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property that directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel that is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged

in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements that are intended for sale with newspapers published in this state and that have already been subjected to an excise tax under the laws of another state in the United States that equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind~~,~~ AND visually impaired ~~and multihandicapped~~ children AND CHILDREN WITH MULTIDISABILITIES from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for ~~mentally or physically handicapped~~ persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer that is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5.1, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL DISABILITY as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For

the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be included in the retail classification, that is used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for

any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural,

horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are

precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

Sec. 204. Section 42-11105, Arizona Revised Statutes, is amended to read:

42-11105. Exemption for health care property

A. Hospitals for the relief of the indigent or afflicted, appurtenant land and their fixtures and equipment are exempt from taxation if they are not used or held for profit.

B. Property that is used to operate a health care institution that provides medical, nursing or health related services ~~to~~ FOR persons ~~who are handicapped~~ WITH DISABILITIES or WHO ARE sixty-two years of age or older is exempt from taxation if the property is not used or held for profit.

C. Qualifying community health centers as defined in section 36-2907.06~~,~~ AND appurtenant land and their fixtures and equipment are exempt from taxation if they are not used or held for profit.

D. Property that is owned by a health care provider~~,~~ recognized under section 501(c)(3) of the internal revenue code and organized as a nonprofit corporation is exempt from taxation if the property is used to provide health care services and the property is not used or held for profit. An exemption under this subsection includes all buildings, appurtenant land, fixtures, equipment and other reasonably required property, including property used for the administration of services. For the purposes of this subsection, "health

care provider" means a health care institution as defined in title 36 or an entity that provides health care services directly to patients through health care providers who are licensed pursuant to title 32.

Sec. 205. Section 42-11106, Arizona Revised Statutes, is amended to read:

42-11106. Exemption for apartments for elderly residents or residents with disabilities

Property that is used to operate a nonprofit residential apartment housing facility that is structured for ~~handicapped~~ persons WITH DISABILITIES or persons who are sixty-two years of age or older is exempt from taxation if either of the following circumstances applies:

1. The property is located adjacent to property that is exempt from taxation under section 42-11105, subsection B and is owned and operated by the same person or association that owns that adjacent property.

2. The federal, state or local government or a nonprofit organization pays a subsidy and:

(a) The payment or subsidy is a substantial amount in relation either to the amount given or to the total annual operating expenses to pay for principal, interest and operating expenses.

(b) The nonprofit organization is not created or operated for the primary purpose of providing the subsidy or payment.

Sec. 206. Section 42-11111, Arizona Revised Statutes, is amended to read:

42-11111. Exemption for property of widows, widowers and persons with disabilities

A. The property of widows, widowers and ~~disabled~~ persons WITH DISABILITIES who are residents of this state is exempt from taxation to the extent allowed by article IX, sections 2, 2.1, 2.2 and 2.3, Constitution of Arizona, and subject to the conditions and limitations prescribed by this section.

B. Pursuant to article IX, section 2.3, Constitution of Arizona, the exemptions from taxation under this section are allowed in the amount of:

1. Three thousand dollars if the person's total assessment does not exceed twenty thousand dollars.

2. No exemption if the person's total assessment exceeds twenty thousand dollars.

C. On or before December 31 of each year, the department shall increase the following amounts based on the average annual percentage increase, if any, in the GDP price deflator in the two most recent complete state fiscal years:

1. The total allowable exemption amount and the total assessment limitation amount under subsection B of this section.

2. The total income limitation amounts under subsection E, paragraphs 1 and 2 of this section.

For the purposes of this subsection, "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce or its successor for the four quarters of the state fiscal year.

D. For the purpose of determining the amount of the allowable exemption pursuant to subsection B of this section, the person's total assessment shall not include the value of any vehicle that is taxed under title 28, chapter 16, article 3.

E. Pursuant to article IX, section 2.3, Constitution of Arizona, to qualify for this exemption, the total income from all sources of the claimant and the claimant's spouse and the income from all sources of all of the claimant's children who resided with the claimant in the claimant's residence in the year immediately preceding the year for which the claimant applies for the exemption shall not exceed:

1. Twenty-five thousand dollars if none of the claimant's children under eighteen years of age resided with the claimant in the claimant's residence.

2. Thirty thousand dollars if one or more of the claimant's children residing with the claimant in the claimant's residence were either:

(a) Under eighteen years of age.

(b) Totally and permanently, ~~physically or mentally disabled~~ PHYSICAL OR MENTAL DISABILITIES, as certified by competent medical authority as provided by law.

F. For the purposes of subsection E of this section, "income from all sources" means the sum of the following, but excluding the items listed in subsection G of this section:

1. Adjusted gross income as defined by the department.

2. The amount of capital gains excluded from adjusted gross income.

3. Nontaxable strike benefits.

4. Nontaxable interest that is received from the federal government or any of its instrumentalities.

5. Payments that are received from a retirement program and paid by:

(a) This state or any of its political subdivisions.

(b) The United States through any of its agencies, instrumentalities or programs, except as provided in subsection G of this section.

6. The gross amount of any pension or annuity that is not otherwise exempted.

G. Notwithstanding subsection F of this section, "income from all sources" does not include monies received from:

1. Cash public assistance and relief.

2. Railroad retirement benefits.

3. Payments under the federal social security act (49 Stat. 620).

4. Payments under the unemployment insurance laws of this state.

5. Payments from veterans disability pensions.

6. Workers' compensation payments.

7. "Loss of time" insurance.

8. Gifts from nongovernmental sources, surplus foods or other relief in kind supplied by a governmental agency.

H. A widow, widower or ~~disabled~~ A person WITH A DISABILITY shall initially establish eligibility for exemption under this section by filing an affidavit with the county assessor under section 42-11152. Thereafter, the person is not required to file an affidavit under section 42-11152, but the person or the person's representative shall annually calculate income from the preceding year to ensure that the person still qualifies for the exemption and shall notify the county assessor in writing of any event that disqualifies the widow, widower or ~~disabled~~ person WITH A DISABILITY from further exemption. Regardless of whether the person or representative notifies the assessor as required by this subsection, the property is subject to tax as provided by law from the date of disqualification, including interest, penalties and proceedings for tax delinquencies. Disqualifying events include:

1. The person's death.

2. The remarriage of a widow or widower.

3. The person's income from all sources exceeding the limits prescribed by subsection E of this section.

4. The conveyance of title to the property to another owner.

I. Any dollar amount of exemption that is unused in a tax year against the limited property value of property and improvements owned by the individual may be applied for the tax year against the value of personal property subject to special property taxes including the taxes collected pursuant to title 5, chapter 3, article 3 and title 28, chapter 16, article 3.

J. An individual is not entitled to property tax exemptions in the aggregate that exceed the maximum allowed to a widow, widower or ~~disabled~~ person WITH A DISABILITY even if the person is eligible for an exemption in more than one category.

Sec. 207. Section 42-11153, Arizona Revised Statutes, is amended to read:

42-11153. Deadline for filing affidavit

A. Except as provided in section 42-11104, subsection E, section 42-11109, subsection B, section 42-11110, subsection B, section 42-11111, subsection H, section 42-11131, subsection C and section 42-11132, subsection C, a failure by a taxpayer who is entitled to an exemption to make an affidavit or furnish evidence required by this article between the first Monday in January and March 1 of each year constitutes a waiver of the exemption.

B. If a widow, widower or ~~disabled~~ person WITH A DISABILITY whose property is exempt from tax under section 42-11111, or an organization that is exempt from federal income tax under section 501(c) of the internal revenue code and is exempt from property tax under article 3 of this chapter,

submits a petition after the deadlines prescribed by subsection A of this section, the person or organization may have the waiver redeemed by the county board of supervisors at any regular meeting, except that no taxes that were due and payable before the petition was submitted may be refunded or abated.

Sec. 208. Section 42-12004, Arizona Revised Statutes, is amended to read:

42-12004. Class four property

A. For purposes of taxation, class four is established consisting of:

1. Real and personal property and improvements to the property that are used for residential purposes, including residential property that is owned in foreclosure by a financial institution, that is not otherwise included in another classification and that is valued at full cash value. The homesite that is included in class four may include:

(a) Up to ten acres on a single parcel of real property on which the residential improvement is located.

(b) More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel. For the purposes of this ~~paragraph~~ SUBDIVISION, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.

2. Real and personal property and improvements to the property that are used solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.

3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.

4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons ~~who are handicapped~~ WITH DISABILITIES or WHO ARE sixty-two years of age or older and that are valued at full cash value.

5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or health related services and that are structured to house or care for persons ~~who are handicapped~~ WITH DISABILITIES or WHO ARE sixty-two years of age or older and that are valued at full cash value.

6. Real and personal property consisting of no more than eight rooms of residential property that are leased or rented to transient lodgers, together with furnishing no more than a breakfast meal, by the owner who resides on the property and that is valued at full cash value.

7. Real and personal property consisting of residential dwellings that are maintained for occupancy by agricultural employees as a condition of

employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.

8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.

9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.

B. Subsection A, paragraphs 4 and 5 of this section shall not be construed to limit eligibility for exemption from taxation under chapter 11, article 3 of this title.

Sec. 209. Section 43-1088, Arizona Revised Statutes, is amended to read:

43-1088. <u>Credit for contribution to qualifying charitable organizations; definitions</u>

A. Except as provided in subsection B of this section, a credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G during the taxable year to a qualifying charitable organization not to exceed:

1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. If the voluntary cash contribution by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying foster care charitable organization, the credit shall not exceed:

1. Four hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred dollars in any taxable year for a married couple filing a joint return.

C. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

D. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

E. The credit allowed by this section is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

F. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

G. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

H. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(a) Receive temporary assistance for needy families benefits.

(b) Are low income residents of this state.

(c) Are chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

3. A statement that the organization plans to continue spending at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low income residents of this state or who are chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

4. A statement that the organization does not provide, pay for or provide coverage of abortions and does not financially support any other entity that provides, pays for or provides coverage of abortions.

I. The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

J. For the purposes of this section:

1. "Chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES" has the same meaning prescribed in section 36-260.

2. "Low income residents" means persons whose household income is less than one hundred fifty per cent of the federal poverty level.

3. "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under section 501(c)(3) of the internal revenue code or is a designated community action

agency that receives community services block grant program monies pursuant to 42 United States Code section 9901. The organization must spend at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low income residents of this state and their households or to chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES who are residents of this state. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. Qualifying charitable organization does not include any entity that provides, pays for or provides coverage of abortions or that financially supports any other entity that provides, pays for or provides coverage of abortions.

4. "Qualifying foster care charitable organization" means a qualifying charitable organization that each operating year provides services to at least two hundred foster children in this state and spends at least fifty per cent of its budget on services to foster children in this state. For the purposes of this paragraph, "foster children" has the same meaning prescribed in section 8-501.

5. "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state.

Sec. 210. Section 44-1562, Arizona Revised Statutes, is amended to read:

44-1562. Full-service gasoline stations; assistance to drivers with disabilities

Each full-service gasoline station offering self-service at a lesser cost shall require an attendant WHO IS employed by the station to dispense gasoline from the self-service portion of the station to a motor vehicle properly displaying a distinguishing insignia placard or number plate issued to a ~~physically disabled~~ person WITH A PHYSICAL DISABILITY pursuant to section 28-2409 if the person to whom the placard or plate has been issued is the operator of the vehicle and the service is requested during those hours that full service is offered at that station.

Sec. 211. Section 44-1950, Arizona Revised Statutes, is amended to read:

44-1950. Active military duty; compensation

A salesman who is registered under this chapter and who is a member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall remain eligible to receive compensation for transactions under this chapter while the salesman is on federal active duty or while temporarily ~~disabled~~ WITH A DISABILITY following federal active duty if the salesman's registration is in approved

status or has been placed in a specially designated inactive status by the financial industry regulatory authority.

Sec. 212. Section 45-315, Arizona Revised Statutes, is amended to read:

45-315. Waiver of requirements; unavailability; health or safety requirements

A. If a water conserving plumbing fixture required by this article is unavailable from any reasonable source for a period of more than thirty days, the developer, builder or contractor of a new building or of a modification or addition to an existing building may apply for a waiver of the requirements of this article. The application for a waiver shall be in writing, shall contain sufficient documentation to support the claim that the device will not be available for a period of more than thirty days and shall be delivered to the director, either personally or by certified mail. The director may request additional information in order to determine if the application for waiver is valid.

B. Within three days of receipt of a completed application for a waiver pursuant to subsection A, the director shall either grant or deny the waiver. If the director finds that plumbing fixtures that meet the requirements of this article are unavailable from any reasonable source for a period of more than thirty days, the director may grant to the applicant a written waiver allowing installation of plumbing fixtures that do not meet the standards prescribed by this article for a period of one hundred eighty days from the date the waiver is issued. If plumbing fixtures meeting the requirements of this article become available before the one hundred eighty day period expires, the waiver terminates automatically except as to any noncomplying plumbing fixtures already purchased pursuant to a waiver obtained under this subsection.

C. If a water conserving plumbing fixture required by this article would cause a health or safety hazard or an unusual hardship, including any hardship for ~~the handicapped~~ PERSONS WITH DISABILITIES or officially designated historic buildings, or would require a greater quantity of water to be used to operate the fixture properly if installed in a new or existing building, the developer, builder, contractor, owner or tenant of the building may apply for a waiver of the requirements of this article. The application for waiver shall be in writing, shall contain sufficient documentation to support the claim that the fixture would cause a health or safety hazard or an unusual hardship, including any hardship to ~~the handicapped~~ PERSONS WITH DISABILITIES or officially designated historic buildings, or would require a greater quantity of water to be used to operate the fixture properly, and shall be delivered to the director, either personally or by certified mail. The director may request additional information in order to determine whether the application for waiver is valid.

D. Within three days of receipt of a completed application for a waiver pursuant to subsection C, the director shall either grant or deny the waiver. If the director finds that the use of a water conserving plumbing fixture required by this article would cause a health or safety hazard or an unusual hardship, including any hardship for ~~the handicapped~~ PERSONS WITH DISABILITIES or officially designated historic buildings, or would require a greater quantity of water to be used to operate the fixture properly, the director may grant to the applicant a written waiver allowing installation of noncomplying plumbing fixtures for those uses identified in the application.

Sec. 213. Section 46-191, Arizona Revised Statutes, is amended to read:

46-191. Definitions

In this article, unless the context otherwise requires:

1. "Adult day care" or "adult day health" means services which provide adults with optimal personal care in a group setting during a portion of a twenty-four hour day. This service provides planned care and supervision, recreation and socialization, personal care, personal living skills training, congregate meals and health monitoring and may include health related services such as preventive, therapeutic and restorative health care.

2. "Attendant care" means a service which provides a trained attendant to provide assistance with homemaking, general supervision and personal care.

3. "Case management services" means the assessment and development of an individualized service plan through which the eligibility of individuals is determined, appropriate services or benefits are identified, planned, reported, monitored or terminated and follow-up is provided if and when appropriate.

4. "Home care services" means services provided to an individual who is functionally impaired and unable to perform activities of daily living. These services include case management, assessment of functional impairment and needed community services, home care, housekeeping chore services, home health aid, personal care, visiting nurse services, adult day care, adult day health, respite care, attendant care and home delivered meals.

5. "Home delivered meals service" means a nutritious meal which contains at least one-third of the recommended dietary allowance for an individual and is delivered to the individual's place of residence.

6. "Home health aid" means services which provide intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living within the individual's place of residence.

7. "Nonmedical home and community based care system" means a comprehensive, case managed system of care which is provided to a ~~functionally disabled~~ FUNCTIONAL person WITH A DISABILITY in the person's home or community and which supports the role of the family and caregivers as a part of the care plan which may include personal care, housekeeper chore services, adult day care, adult day health care, respite care and home

delivered meals, as well as health care services which are a necessary, but subordinate, part of the care plan.

8. "Older Arizonan" means a resident of this state who is at least sixty years of age.

~~10.~~ 9. "~~Physically disabled~~ PERSON WITH A PHYSICAL DISABILITY" means an individual who has a physical impairment that substantially limits one or more major life activities and who has a diagnosis of such impairment.

~~9.~~ 10. "Personal care" means assistance to meet essential personal physical needs.

11. "Respite sitter services" means short-term care and supervision which may be required to be available on a twenty-four hour basis.

12. "Visiting nurse services" means services which provide intermittent skilled nursing services in the individual's place of residence. Skilled nursing services may include health maintenance, continued treatment or supervision of a health condition.

Sec. 214. Section 46-241.02, Arizona Revised Statutes, is amended to read:

46-241.02. Eligibility for short-term crisis services

To qualify for short-term crisis services, an applicant shall prove that the applicant meets all of the following requirements:

1. The applicant is a resident of this state at the time of application.

2. The applicant is experiencing a short-term crisis that will cause homelessness or the interruption of heating or cooling at the applicant's residence.

3. The total gross countable income of the applicant's household does not exceed:

(a) One hundred twenty-five per cent of the federal poverty guidelines.

(b) One hundred fifty per cent of the federal poverty guidelines if the household includes a ~~disabled~~ PERSON WITH A DISABILITY or elderly person.

Sec. 215. Section 46-251, Arizona Revised Statutes, is amended to read:

46-251. Mandatory state supplemental payments program

A. The mandatory state supplemental payments program provided for in this section may be administered directly by the department, or by the federal government under agreement with the department whereby the department pays to the federal government the cost of supplemental payments made under this section and the federal government administers the program pursuant to the agreement and title XVI of the social security act, as amended.

B. Mandatory state supplemental payments shall be granted for January 1974 and thereafter under this section to any person who meets and maintains the following requirements:

1. Was qualified for and received a state public assistance payment under the federally assisted program of old age assistance or aid to the blind or aid to ~~the permanently and totally disabled~~ PERSONS WITH PERMANENT AND TOTAL DISABILITY for the month of December 1973, and

2. Is eligible for and receives, or who, but for his income, would be eligible to receive, a payment under title XVI of the social security act, as amended.

C. The amount of mandatory state supplemental payment to a recipient for a month shall be an amount equal to the amount by which such individual's December 1973 minimum income level as defined in title XVI of the social security act as amended, exceeds the amount of such individual's title XVI benefit plus other income.

Sec. 216. Section 46-299, Arizona Revised Statutes, is amended to read:

46-299. Jobs program; definition

A. As a condition of eligibility or continuing eligibility for cash assistance, all recipients shall engage in work activities that are established in this article and determined appropriate by the department. ~~A disabled~~ AN individual WITH A DISABILITY shall engage in work activities as required by this subsection unless the ~~disabled~~ individual WITH A DISABILITY provides the department verification of a condition that meets disability or temporary disability criteria established by the department. The following individuals are temporarily deferred from the requirement to engage in work activities:

1. A parent in a single parent family or a nonparent relative personally caring for a child who is under the age of twelve months for a period of not more than twelve months in the recipient's lifetime. This deferral does not apply to teenaged custodial parents who do not have a high school diploma or its equivalent.

2. An unmarried custodial parent who is under eighteen years of age and who is personally caring for a child who is under the age of twelve weeks.

3. An individual who provides verification acceptable to the department that the individual is personally caring for the individual's dependent who is ~~disabled~~ A PERSON WITH A DISABILITY and unable to care for himself.

4. Victims of domestic violence whose participation in work activities causes an immediate threat to their own safety or the safety of their children.

5. Dependent children as defined in this article.

B. To the extent that the state meets the federally required work participation rates, unmarried custodial parents may attend a postsecondary educational program full time in lieu of standard work participation requirements. The department may require additional work activities.

C. Teenaged heads of household who are under twenty years of age and who have not attained their high school diploma or its equivalent are required to either:

1. Maintain satisfactory attendance at a secondary school or the equivalent.

2. Satisfactorily participate in education directly related to employment at the level of participation established by the department.

D. The department may establish the minimum work participation level required to meet the work requirements established in Public Law 104-193, section 407 (1996).

E. All cash assistance recipients, excluding dependent children, shall complete a personal responsibility declaration.

F. All cash assistance recipients, excluding dependent children complying with compulsory school requirements as prescribed in section 15-803, shall also participate in the development of an employment plan and shall receive services in support of and as specified in that plan.

G. Participants who fail or refuse to engage in work activities as required by the department are subject to the progressive sanctions prescribed in section 46-300.

H. The department shall adopt rules that establish good cause reasons that excuse the participant from engaging in work activities.

I. This state shall provide workers' compensation coverage for cash assistance recipients engaged in unpaid work experience or community service programs as established in this article. The cost shall be paid from the temporary assistance for needy families monies.

J. The department may operate on a statewide basis a wage subsidy program. Employers may hire recipients of cash assistance and food stamps for subsidized job slots that are full time and that offer a reasonable possibility of unsubsidized employment after the subsidy period. This program shall provide that:

1. Employers who operate an approved wage subsidy program shall receive a subsidy for up to six months. The department may grant an extension of three months to employers operating in areas identified as having a higher unemployment rate than the state average, as defined by the department, if the extension increases the likelihood of ongoing unsubsidized employment for the subsidized employee.

2. The department shall ensure that subsidized jobs made available to subsidized employees:

(a) Do not require work in excess of forty hours per week.

(b) Pay a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage.

(c) Do not impair an existing contract or collective bargaining agreement.

(d) Do not displace currently employed workers or fill positions that are vacant due to a layoff.

3. Wage subsidy employers shall:

(a) Maintain health, safety and working conditions at or above levels generally acceptable in the industry and not less than those of comparable jobs offered by the employer.

(b) Provide on-the-job training necessary for subsidized employees to perform their duties.

(c) Sign an agreement for each placement outlining the specific job offered to a subsidized employee and agree to abide by all of the requirements of the program. All agreements shall contain a provision that sets forth the employer's responsibility to repay subsidies paid under this article if the employer violates program requirements.

(d) Provide workers' compensation coverage for each subsidized employee they employ.

(e) Provide the subsidized employee with benefits equal to those for new employees or as required by state and federal law, whichever is greater. For purposes of this ~~paragraph~~ SUBDIVISION, "benefits" includes health care coverage, paid sick leave and holiday and vacation pay.

4. Eligible subsidized employees are those who:

(a) Do not have sufficient work experience to obtain unsubsidized employment.

(b) Have completed an employment preparation program.

(c) Are deemed able to benefit from this employment strategy by the department.

5. The department shall:

(a) Disregard income earned by the subsidized employee in the subsidized job when determining the household's eligibility for cash assistance and food stamps.

(b) Suspend regular payments of cash assistance and food stamps to the household at the end of the calendar month in which an employer makes the first subsidized wage payment to a subsidized employee who is otherwise eligible to receive the cash assistance and food stamps.

(c) Reimburse employers each month, from cash assistance and food stamps, the lesser of a fixed subsidy amount determined by the department or the gross wages paid to the subsidized employee.

(d) Determine eligibility for supplemental payments as follows:

(i) If the net monthly full-time wage paid to a subsidized employee is less than the combined monthly total of the cash assistance and food stamps the participant is eligible to receive, the department shall authorize issuance of a supplemental cash payment to compensate for the deficit. To determine if a deficit exists, the department shall adopt, through rules, an equivalency scale that is adjustable to household size and other factors. For purposes of this ~~section~~ ITEM, "net monthly full-time wage" refers to a participant's wages after required payroll deductions.

(ii) The department shall monthly determine and pay in advance supplemental payments to eligible subsidized employees. In calculating the payment, the department shall assume that the participant will work forty hours per week during the month unless an employer provides information that the number of hours to be worked by a subsidized employee will be reduced.

K. For purposes of this section, "subsidized employee" means an individual engaged in this subsidized employment activity.

Sec. 217. Section 46-451, Arizona Revised Statutes, is amended to read:

46-451. Definitions; program goals

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

1. "Abuse" means:

(a) Intentional infliction of physical harm.

(b) Injury caused by negligent acts or omissions.

(c) Unreasonable confinement.

(d) Sexual abuse or sexual assault.

2. "De facto conservator" means any person who takes possession of the estate of a vulnerable adult, without right or lawful authority. A de facto conservator is subject to all of the responsibilities that attach to a legally appointed conservator or trustee.

3. "De facto guardian" means any person who takes possession of the person of a vulnerable adult, without right or lawful authority. A de facto guardian is subject to all of the responsibilities that attach to a legally appointed guardian.

4. "Exploitation" means the illegal or improper use of a vulnerable adult or his resources for another's profit or advantage.

5. "Informed consent" means any of the following:

(a) A written expression by the person that the person fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health and that the person desires that the services be withdrawn. A written expression is valid only if the person is of sound mind and if the consent is witnessed by at least two individuals who do not benefit by the withdrawal of services.

(b) Consent to withdraw food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health as permitted by an order of a court of competent jurisdiction.

(c) A declaration made pursuant to title 36, chapter 32.

(d) Consent by another person under a durable power of attorney relating to health care services to withdraw food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health.

6. "Neglect" means a pattern of conduct without the person's informed consent resulting in deprivation of food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health.

7. "Protective services" means a program of identifiable and specialized social services that may offer social services appropriate to resolve problems of abuse, exploitation or neglect of a vulnerable adult.

8. "Protective services worker" means a person who has been selected by and trained under the requirements prescribed by the department to provide protective services.

9. "Vulnerable adult" means an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment. Vulnerable adult includes an incapacitated person as defined in section 14-5101.

B. Protective services programs shall seek to maintain the adult in his familiar environment by strengthening his capacity for self-maintenance or by providing supportive services.

C. Nothing in this section shall be construed to mean that an adult is abused, neglected or in need of protective services for the sole reason that he relies on treatment from a recognized religious method of healing in lieu of medical treatment.

D. For the purposes of this section, a person is not exploited by a transfer of assets if the transfer is to obtain or maintain eligibility for benefits under title 36, chapter 29 or benefits for supplemental security income, medicare or veterans' administration programs and the transfer of assets is between the person and any of the following:

1. The person's spouse.

2. The person's ~~disabled~~ child WITH A DISABILITY.

3. A trust for the benefit of the person's spouse or ~~disabled~~ child WITH A DISABILITY.

E. A transfer of assets for the purpose of obtaining or maintaining eligibility for benefits under title 36, chapter 29 shall comply with 42 United States Code section 1396p and sections 36-2934 and 36-2934.01.

Sec. 218. Section 46-741, Arizona Revised Statutes, is amended to read:

46-741. <u>Neighbors helping neighbors fund; definition</u>

A. A neighbors helping neighbors fund is established to provide eligible recipients with assistance in paying utility bills, conserving energy and weatherization. The department shall administer the fund. The department shall coordinate this assistance with its low income energy assistance program and its weatherization assistance program.

B. Eligible recipients are individuals who have a household income at or below one hundred twenty-five per cent of the poverty level or individuals who are sixty years of age or older or ~~handicapped~~ PERSONS WITH DISABILITIES

and who have a household income at or below one hundred fifty per cent of the poverty level. For the purposes of this subsection, the poverty level is as determined by the United States office of management and budget and reported in the federal register.

C. Beginning July 1, 1993, the director shall provide the use of neighbors helping neighbors fund monies to designated community action or other agencies currently providing energy assistance services to individuals who are eligible under subsection B OF THIS SECTION to receive assistance under this article.

D. Monies in the neighbors helping neighbors fund do not revert to the state general fund.

E. An amount of not more than two per cent of the neighbors helping neighbors fund monies may be used by the department and an amount of not more than eight per cent of the fund monies may be used by the agencies to reimburse them for their administrative costs in providing services under this article.

F. On or before October 15 of each year, the director shall submit a report to the appropriate legislative committees that includes summaries of total monies collected and distributed under this article and such other information as the legislative committees request.

G. For purposes of this section, "utility" means a person who transmits, sells, delivers or furnishes electricity, water, gas or telecommunication services for public use.

Sec. 219. Section 48-222, Arizona Revised Statutes, is amended to read:

48-222. <u>District retirement plans authorized; benefits provided</u>

A. A district which is not participating in the Arizona state retirement system provided by title 38, chapter 5, article 2, or the employees of which are not members of the Arizona state retirement system may, by appropriate action of a majority of its governing body, adopt a retirement plan for its employees.

B. Any such retirement plan may provide for such of the following benefits in such amounts and at such times as the governing body of a district may determine:

1. Retirement income or pensions for eligible district employees upon attaining age not less than sixty years payable in installments not more frequently than monthly, either from a trust fund and the income therefrom created by employees' and district contributions or by the purchase of single premium annuity contracts with legal reserve life insurance companies authorized to transact business in Arizona in such amounts as the balance in the employees' accounts on the books of the trust fund will provide.

2. The purchase by the district of a group annuity contract with a reserve life insurance company providing for retirement income upon attaining age not less than sixty years, for death benefits of a participant prior to

the participant's retirement, and for any of the other benefits mentioned in this section.

3. Payment of retirement pension or income upon an employee ~~being totally and permanently disabled~~ HAVING A PERMANENT AND TOTAL DISABILITY to the extent to which the employee is prevented from engaging in the employee's normal occupation with the district. The disability retirement income shall commence at such time as the plan adopted by the governing body of a district shall provide.

4. Termination of service withdrawal benefits after both the attainment of age fifty and five years of participation in the plan.

5. The establishment of nonforfeitable interests of various types in any trust fund or annuity contract upon termination of service after not less than five years of continuous participation in the plan, depending upon the period of continuous participation.

6. Prior service retirement income and benefits.

C. The governing body is authorized to adopt such other provisions in a plan as it may deem to be for the best interests of the participants and the district and which are actuarially sound and not in conflict with the provisions of this article.

Sec. 220. Section 48-3049, Arizona Revised Statutes, is amended to read:

48-3049. Absent voters or voters with disabilities

An elector absent from the county in which the district is located, or who expects to be absent therefrom at the time of holding an election in the district, or who furnishes the secretary of the board with a doctor's certificate of physical inability to attend the polls, may vote at an election held in the district substantially in the manner as provided by title 16, chapter 4, article 8. The duties therein required of the county recorder shall be performed by the secretary of the board.

Sec. 221. Section 48-5308, Arizona Revised Statutes, is amended to read:

48-5308. Distribution from regional transportation fund

A. All monies in the bond account of the regional transportation fund shall be held in trust for the owners of the bonds. Monies in the bond account:

1. Shall be paid out to paying agents or directly to the owners of the bonds pursuant to the resolution or resolutions of the board authorizing the issuance of the bonds.

2. May be used to pay bond related expenses or recurring expenses pertaining to administration and payment of the bonds.

B. Monies in the bond proceeds account of the regional transportation fund may be obligated or spent as directed by the board for the purposes provided by subsection C of this section.

C. Except as provided in subsection D of this section, monies in the construction account of the regional transportation fund shall be spent, pledged or accumulated for the design, right-of-way purchase, construction, operation, maintenance and contiguous open space preservation purchase compatible with local environmental ordinance of, and within the expenditure limits for, each element of the regional transportation plan.

D. Notwithstanding any other law, from the monies deposited in the construction account of the regional transportation fund in each fiscal year, the board shall distribute:

1. To each municipality, excluding the municipality that has the largest population in the county, the greater amount of one per cent of the revenues collected from the transportation excise tax authorized pursuant to section 42-6106 or three hundred thousand dollars, to be used for purposes consistent with subsection C of this section.

2. An amount of not more than three hundred thousand dollars to the regional council of governments to hire professional planning, technical and administrative staff required to accomplish plan development for the authority pursuant to section 48-5309 and to perform the responsibilities as the authority may require.

E. The three hundred thousand dollar distributions prescribed by subsection D of this section are subject to:

1. Proration for any fiscal year in which a transportation excise tax authorized pursuant to section 42-6106 is collected for less than a full fiscal year.

2. Adjustment by the annual percentage change for the previous calendar year in the GDP price deflator, as defined in section 41-563, for each fiscal year after the first full fiscal year in which the transportation excise tax is collected.

F. Beginning with the first fiscal year following voter approval of the regional transportation plan, monies appropriated for each of the following purposes, if approved by a majority of the qualified electors voting at a special or general election, by each municipality or the county in the authority shall not be less than the total amount of general monies spent for those purposes in that municipality or county for fiscal year 2003-2004 adjusted by the annual percentage change for the previous calendar year in the GDP price deflator as defined in section 41-563:

1. Roadway improvements, including controlled access highways, parkways and controlled access arterials, arterial upgrades and related grade separations.

2. Transit improvements for buses, including expansion of the bus fleet and its associated maintenance facility, expansion of express routes and associated connecting terminals, ridesharing, van pool fleet acquisition, including special projects for ~~the handicapped~~ PERSONS WITH DISABILITIES and elderly INDIVIDUALS, and park and ride lots.

3. An express and light rail system.

4. Bicycle projects, including striped lanes on arterials, neighborhood bike routes and planning of bikeways focused on major regional activity center destinations.

5. Pedestrian projects on arterial and collector streets, neighborhood walkways and walkways focused on major regional activity center destinations.

Sec. 222. Legislative intent

This act replaces the term "disabled", "handicap", "handicapped" or "handicapping" in each of the statutes in which it appears in the Arizona Revised Statutes, except references to the proper name of a federal act, and requires this state to use the term "persons with disabilities". It is the intent of the legislature that agencies, boards, commissions, departments, officers and other administrative units of this state make similar changes in their respective administrative rules.

Sec. 223. Effective date

Section 42-5061, Arizona Revised Statues, as amended by Laws 2013, chapter 255, section 13 and this act, and section 42-5159, Arizona Revised Statutes, as amended by Laws 2013, chapter 255, section 17 and this act, are effective from and after December 31, 2014.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.

Passed the House March 6, 2014

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Chief Clerk of the House

Passed the Senate April 17, 2014

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2667

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 21, 2014,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22 day of April, 2014,

at 8:30 o'clock A M.

Michaela Howard

Secretary to the Governor

Approved this 23 day of

April, 2014,

at 10:24 o'clock A M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24th day of April, 2014,

at 8:57 o'clock a M.

Secretary of State

H.B. 2667