House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 214

HOUSE BILL 2388

AN ACT

REPEALING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 195, SECTION 82; AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 257, SECTION 30; AMENDING SECTIONS 43-1021 AND 43-1022, ARIZONA REVISED STATUTES; AMENDING TITLE 46, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 8; APPROPRIATING MONIES; RELATING TO PERSONS WITH DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Repeal

Section 41-2501, Arizona Revised Statutes, as amended by Laws 2015, chapter 195, section 82, is repealed.

Sec. 2. Section 41-2501, Arizona Revised Statutes, as amended by Laws 2015, chapter 257, section 30, is amended to read:

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply to any agency as defined in section 41-1001, including the office of the governor.

E. The Arizona board of regents and the legislative and judicial branches of state government are not subject to this chapter except as prescribed in subsection F of this section.

F. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

G. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

H. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program

contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 AND CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36, CHAPTER 34. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

I. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

J. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

K. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

L. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

M. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

N. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

O. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

P. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

Q. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ff).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

R. The ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to title 36, chapter 30, article 1.

~~S.~~ T. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital.

~~T.~~ U. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.

~~U.~~ V. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1.

~~V.~~ W. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

~~W.~~ X. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

~~X.~~ Y. The Arizona state schools for the deaf and the blind are exempt from this chapter for the purchase of textbooks and when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are

related to the operation of the schools or are products for which special discounts are offered for educational institutions.

~~Y.~~ Z. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

~~Z.~~ AA. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

~~AA.~~ BB. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

~~BB.~~ CC. The motor vehicle division of the department of transportation is exempt from this chapter for third-party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

~~CC.~~ DD. This section does not exempt third-party authorizations pursuant to title 28, chapter 13 from any other applicable law.

~~DD.~~ EE. The state forester is exempt from this chapter for purchases and contracts relating to wildland fire suppression and pre-positioning equipment resources and for other activities related to combating wildland fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

~~EE.~~ FF. The cotton research and protection council is exempt from this chapter for procurements.

~~FF.~~ GG. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

~~GG.~~ HH. The Arizona commerce authority is exempt from this chapter, except article 10 for the purpose of cooperative purchases. The authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices available to the public. The authority may exempt specific expenditures from the policies, procedures and practices.

~~HH.~~ II. The Arizona exposition and state fair board is exempt from this chapter for contracts for professional entertainment.

~~II.~~ JJ. This chapter does not apply to the purchase of water, gas or electric utilities.

~~JJ.~~ KK. This chapter does not apply to professional certifications, professional memberships and conference registrations.

~~KK.~~ LL. The department of gaming is exempt from this chapter for problem gambling treatment services contracts with licensed behavioral health professionals.

~~LL.~~ MM. This chapter does not apply to contracts for credit reporting services.

~~MM.~~ NN. This chapter does not apply to contracts entered into by the department of child safety:

1. With a provider of family foster care pursuant to section 8-503.

2. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

OO. THIS CHAPTER DOES NOT APPLY TO CONTRACTS ENTERED INTO BY THE DEPARTMENT OF ECONOMIC SECURITY WITH A FINANCIAL INSTITUTION TO SERVE AS A PROGRAM MANAGER AND DEPOSITORY UNDER SECTION 46-903.

Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Additions to Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

1. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 increases the beneficiary's Arizona gross income.

2. An amount equal to the ordinary income portion of a lump sum distribution that was excluded from federal adjusted gross income pursuant to the special rule for individuals who attained fifty years of age before January 1, 1986 under Public Law 99-514, section 1122(h)(3).

3. The amount of interest income received on obligations of any state, territory or possession of the United States, or any political subdivision thereof, located outside the state of Arizona, reduced, for tax years

beginning from and after December 31, 1996, by the amount of any interest on indebtedness and other related expenses that were incurred or continued to purchase or carry those obligations and that are not otherwise deducted or subtracted in arriving at Arizona gross income.

4. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

5. The excess of a partner's share of partnership losses determined pursuant to section 702(a)(8) of the internal revenue code over the losses allowable under chapter 14, article 2 of this title.

6. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to the internal revenue code exceeds the adjusted basis of such property computed pursuant to this title and the income tax act of 1954, as amended. This paragraph shall apply to all property that is held for the production of income and that is sold or otherwise disposed of during the taxable year, except depreciable property used in a trade or business.

7. Any amount of agricultural water conservation expenses that were deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1084.

8. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

9. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1080 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1080.

10. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

11. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

12. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

13. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

14. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

15. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

16. The amount of any depreciation allowance allowed pursuant to section 167(a) of the internal revenue code to the extent not previously added.

17. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code in a taxable year beginning before January 1, 2013, the amount in excess of twenty-five thousand dollars.

18. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under this section in any prior taxable years.

19. The amount of discharge of indebtedness income that is deferred and excluded from the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

20. The amount of any previously deferred original issue discount that was deducted in computing federal adjusted gross income in the current year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted from Arizona gross income pursuant to section 43-1022, paragraph 24.

~~21. For taxable years beginning from and after December 31, 2011 through December 31, 2014, the amount of any deduction that is claimed in computing federal adjusted gross income for health insurance premiums or contributions to a health savings account for which a credit is claimed under section 43-1087.01.~~

~~22.~~ 21. Amounts that are considered to be income under section 43-1032, subsection D because the amount is withdrawn from a long-term health care savings account and not used to pay the taxpayer's long-term health care expenses.

22. THE AMOUNT OF A WITHDRAWAL THAT IS NOT A QUALIFIED DISABILITY EXPENSE AS DEFINED IN 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION FROM AN ACHIEVING A BETTER LIFE EXPERIENCE ACT ACCOUNT ESTABLISHED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION THAT IS MADE TO A DISTRIBUTEE TO THE EXTENT THE AMOUNT IS NOT INCLUDED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME, EXCEPT THAT THE AMOUNT ADDED UNDER THIS PARAGRAPH SHALL NOT EXCEED THE DIFFERENCE BETWEEN THE AMOUNT SUBTRACTED UNDER SECTION 43-1022 IN PRIOR TAXABLE YEARS AND THE AMOUNT ADDED UNDER THIS SECTION IN ANY PRIOR TAXABLE YEARS.

Sec. 4. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

6. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.

7. The amount by which the adjusted basis of property described in this paragraph and computed pursuant to this title and the income tax act of 1954, as amended, exceeds the adjusted basis of such property computed

pursuant to the internal revenue code. This paragraph shall apply to all property that is held for the production of income and that is sold or otherwise disposed of during the taxable year other than depreciable property used in a trade or business.

8. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

9. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

10. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5.1, article 1.

11. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

12. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

13. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

14. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

15. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

16. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

17. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

18. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

19. The amount authorized by section 43-1030 relating to holocaust survivors.

20. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten ~~per cent~~ PERCENT of the amount allowed pursuant to section 168(k) of the internal revenue code.

21. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 16 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

22. With respect to property for which an adjustment was made under section 43-1021, paragraph 17, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 17 in the year in which the amount was adjusted under section 43-1021, paragraph 17 and in each of the following four years.

23. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the

extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Two thousand dollars for a single individual or a head of household.

(b) Four thousand dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed four thousand dollars.

24. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

25. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43-1021, paragraph 19.

26. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

27. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

28. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:

(a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten ~~per cent~~ PERCENT of the net long-term capital gain included in federal adjusted gross income.

(b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty ~~per cent~~ PERCENT of the net long-term capital gain included in federal adjusted gross income.

(c) For taxable years beginning from and after December 31, 2014, twenty-five ~~per cent~~ PERCENT of the net long-term capital gain included in federal adjusted gross income.

For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

29. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

30. With respect to a long-term health care savings account established pursuant to section 43-1032, the amount deposited by the taxpayer in the account during the taxable year to the extent that the taxpayer's contributions are included in the taxpayer's federal adjusted gross income.

31. ANY AMOUNT OF QUALIFIED DISABILITY EXPENSES THAT IS DISTRIBUTED FROM A QUALIFIED ABLE PROGRAM DETERMINED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION AND THAT IS INCLUDED IN INCOME IN COMPUTING FEDERAL ADJUSTED GROSS INCOME. FOR THE PURPOSES OF THIS PARAGRAPH, "QUALIFIED DISABILITY EXPENSES" HAS THE SAME MEANING PRESCRIBED IN SECTION 46-901.

Sec. 5. Title 46, Arizona Revised Statutes, is amended by adding chapter 8, to read:

CHAPTER 8

ARIZONA ABLE PROGRAM

ARTICLE 1. GENERAL PROVISIONS

46-901. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ABLE" MEANS THE ACHIEVING A BETTER LIFE EXPERIENCE ACT.

2. "ACCOUNT" MEANS AN INDIVIDUAL ACCOUNT IN THE FUND ESTABLISHED AS PRESCRIBED IN THIS ARTICLE FOR A SINGLE DESIGNATED BENEFICIARY.

3. "COMMITTEE" MEANS THE ACHIEVING A BETTER LIFE EXPERIENCE ACT OVERSIGHT COMMITTEE.

4. "DEPARTMENT" MEANS THE DEPARTMENT OF ECONOMIC SECURITY.

5. "DESIGNATED BENEFICIARY" MEANS THE ELIGIBLE INDIVIDUAL WHO ESTABLISHES AN ACCOUNT AND WHO IS THE OWNER OF THE ACCOUNT.

6. "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS ENTITLED TO BENEFITS BASED ON BLINDNESS OR DISABILITY UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT, AND SUCH BLINDNESS OR DISABILITY OCCURRED BEFORE THE DATE ON WHICH THE INDIVIDUAL ATTAINED TWENTY-SIX YEARS OF AGE OR A DISABILITY CERTIFICATION WITH RESPECT TO SUCH INDIVIDUAL IS FILED WITH THE UNITED STATES SECRETARY OF THE TREASURY FOR SUCH TAXABLE YEAR AS STIPULATED IN 26 UNITED STATES CODE SECTION 529A.

7. "FINANCIAL INSTITUTION" MEANS ANY BANK, COMMERCIAL BANK, NATIONAL BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, INSURANCE

COMPANY, BROKERAGE FIRM OR OTHER SIMILAR ENTITY THAT IS AUTHORIZED TO DO BUSINESS IN THIS STATE.

8. "FUND" MEANS THE ABLE PROGRAM FUND.

9. "PROGRAM" MEANS THE QUALIFIED ABLE PROGRAM THAT IS ESTABLISHED UNDER THIS ARTICLE AND AS DEFINED IN 26 UNITED STATES CODE SECTION 529A.

10. "QUALIFIED DISABILITY EXPENSES" MEANS ANY EXPENSES THAT ARE RELATED TO THE ELIGIBLE INDIVIDUAL'S BLINDNESS OR DISABILITY AND THAT ARE FOR THE BENEFIT OF AN ELIGIBLE INDIVIDUAL WHO IS THE DESIGNATED BENEFICIARY OF AN ACCOUNT, INCLUDING EDUCATION, HOUSING, TRANSPORTATION, EMPLOYMENT TRAINING AND SUPPORT, ASSISTIVE TECHNOLOGY AND PERSONAL SUPPORT SERVICES, HEALTH CARE, PREVENTION AND WELLNESS, FINANCIAL MANAGEMENT AND ADMINISTRATIVE SERVICES, LEGAL FEES, EXPENSES FOR OVERSIGHT AND MONITORING AND FUNERAL AND BURIAL EXPENSES AND ANY OTHER EXPENSES THAT ARE APPROVED BY THE UNITED STATES SECRETARY OF THE TREASURY AS REQUIRED BY 26 UNITED STATES CODE SECTION 529A.

46-902. Qualified ABLE program; duties

THE DEPARTMENT SHALL:

1. DEVELOP AND IMPLEMENT THE PROGRAM IN A MANNER CONSISTENT WITH THIS ARTICLE THROUGH THE ADOPTION OF RULES, GUIDELINES AND PROCEDURES IN CONSULTATION WITH THE COMMITTEE.

2. RETAIN PROFESSIONAL SERVICES, IF NECESSARY, INCLUDING ACCOUNTANTS, AUDITORS, CONSULTANTS AND OTHER EXPERTS.

3. SEEK RULINGS AND OTHER GUIDANCE FROM THE UNITED STATES DEPARTMENT OF THE TREASURY AND THE INTERNAL REVENUE SERVICE RELATING TO THE PROGRAM.

4. MAKE CHANGES TO THE PROGRAM, AS NECESSARY, TO COMPLY WITH 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.

5. PROVIDE NOTIFICATION TO THE CHAIRPERSONS OF THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND THE HOUSE OF REPRESENTATIVES CHILDREN AND FAMILY AFFAIRS COMMITTEE OR THEIR SUCCESSOR COMMITTEES OF ANY MATERIAL CHANGES TO THE FEDERAL PROGRAM THAT WOULD NECESSITATE CHANGES IN THIS ARTICLE OR RULES ADOPTED PURSUANT TO THIS ARTICLE.

6. NEGOTIATE AND SELECT THE FINANCIAL INSTITUTION OR INSTITUTIONS TO ACT AS THE DEPOSITORY AND MANAGER OF THE PROGRAM IN ACCORDANCE WITH THIS ARTICLE. THE DEPARTMENT SHALL CONSULT WITH THE COMMITTEE WHEN SELECTING THE FINANCIAL INSTITUTION OR INSTITUTIONS.

7. NEGOTIATE A FEE WITH THE FINANCIAL INSTITUTION OR INSTITUTIONS.

8. MAINTAIN THE PROGRAM ON BEHALF OF THIS STATE AS REQUIRED BY 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.

9. DEVELOP AND IMPLEMENT REQUIREMENTS, IN CONSULTATION WITH THE COMMITTEE, FOR DISBURSEMENTS FROM ACCOUNTS FOR QUALIFIED DISABILITY EXPENSES.

10. PROVIDE FOR SEPARATE ACCOUNTING FOR EACH DESIGNATED BENEFICIARY OF THE DESIGNATED BENEFICIARY'S ACCOUNT.

11. DEVELOP PROCEDURES FOR EDUCATING ACCOUNT OWNERS ABOUT NONQUALIFIED AND QUALIFIED EXPENSES IF THE DEPARTMENT FINDS THAT DISTRIBUTIONS FROM ANY ACCOUNT WERE MADE FOR NONQUALIFIED EXPENSES.

12. DEVELOP AND PROVIDE, IN CONSULTATION WITH THE COMMITTEE, EDUCATIONAL MATERIALS ON THE PROGRAM, QUALIFIED DISABILITY EXPENSES AND REQUIREMENTS FOR BEING A DESIGNATED BENEFICIARY.

46-903. Use of contractor as account depository; program manager

A. THE DEPARTMENT SHALL IMPLEMENT THE OPERATION OF THE PROGRAM THROUGH THE USE OF ONE OR MORE FINANCIAL INSTITUTIONS TO ACT AS THE DEPOSITORIES OF THE FUND AND MANAGERS OF THE PROGRAM. UNDER THE PROGRAM, PERSONS MAY SUBMIT APPLICATIONS FOR ENROLLMENT IN THE PROGRAM AND ESTABLISH ACCOUNTS IN THE FUND AT THE FINANCIAL INSTITUTION. MONIES PAID BY ACCOUNT OWNERS AND OTHER CONTRIBUTORS TO THE FUND FOR DEPOSIT IN ACCOUNTS MAINTAINED BY THE FUND AT A FINANCIAL INSTITUTION SHALL BE PAID TO THE FINANCIAL INSTITUTION AS AN AGENT OF THE FUND AND SHALL PROVIDE THAT ALL MONIES PAID BY ACCOUNT OWNERS AND OTHER CONTRIBUTORS TO FUND ACCOUNTS HELD AT FINANCIAL INSTITUTIONS ARE BEING PAID TO THE FUND.

B. THE DEPARTMENT SHALL SOLICIT PROPOSALS FROM FINANCIAL INSTITUTIONS TO ACT AS THE DEPOSITORIES OF FUND MONIES AND MANAGERS OF THE PROGRAM. FINANCIAL INSTITUTIONS THAT SUBMIT PROPOSALS SHALL DESCRIBE THE FINANCIAL INSTRUMENTS THAT WILL BE HELD IN ACCOUNTS. AFTER REVIEW AND RECOMMENDATION FROM THE COMMITTEE, THE DEPARTMENT SHALL SELECT PROPOSALS FROM FINANCIAL INSTITUTIONS TO ACT AS DEPOSITORIES AND MANAGERS. THE SOLICITATION AND SELECTION PROCESS UNDER THIS SECTION IS EXEMPT FROM THE PROCUREMENT CODE REQUIREMENTS OF TITLE 41, CHAPTER 23.

C. ON THE RECOMMENDATION OF THE COMMITTEE, THE DEPARTMENT SHALL SELECT THE FINANCIAL INSTITUTION OR INSTITUTIONS TO IMPLEMENT THE PROGRAM FROM AMONG BIDDING FINANCIAL INSTITUTIONS THAT DEMONSTRATE THE MOST ADVANTAGEOUS COMBINATION, BOTH TO POTENTIAL PROGRAM PARTICIPANTS AND THIS STATE, OF THE FOLLOWING FACTORS:

1. FINANCIAL STABILITY AND INTEGRITY.

2. THE SAFETY OF THE INVESTMENT INSTRUMENTS BEING OFFERED, TAKING INTO ACCOUNT ANY INSURANCE PROVIDED WITH RESPECT TO THESE INSTRUMENTS.

3. THE ABILITY OF THE FINANCIAL INSTITUTIONS, DIRECTLY OR THROUGH A SUBCONTRACT, TO SATISFY RECORD KEEPING AND REPORTING REQUIREMENTS.

4. THE FINANCIAL INSTITUTION'S PLAN FOR PROMOTING THE PROGRAM AND THE INVESTMENT IT IS WILLING TO MAKE TO PROMOTE THE PROGRAM.

5. THE FEES, IF ANY, PROPOSED TO BE CHARGED TO ELIGIBLE INDIVIDUALS FOR MAINTAINING ACCOUNTS.

6. THE MINIMUM INITIAL DEPOSIT THAT THE FINANCIAL INSTITUTION WILL REQUIRE FOR THE INVESTMENT OF FUND MONIES, IF ANY, AND THE WILLINGNESS OF THE FINANCIAL INSTITUTION TO ACCEPT CONTRIBUTIONS THROUGH PAYROLL DEDUCTION PLANS AND OTHER DEPOSIT PLANS.

7. ANY OTHER BENEFITS TO THIS STATE OR ITS RESIDENTS INCLUDED IN THE PROPOSAL, INCLUDING AN ACCOUNT OPENING FEE PAYABLE TO THE DEPARTMENT BY THE DESIGNATED BENEFICIARY AND AN ADDITIONAL FEE FROM THE FINANCIAL INSTITUTION FOR STATEWIDE AND NATIONAL PROGRAM MARKETING BY THE DEPARTMENT.

8. THE ABILITY OF THE FINANCIAL INSTITUTION TO DEVELOP PROCEDURES FOR EDUCATING ACCOUNT OWNERS ABOUT QUALIFIED AND NONQUALIFIED EXPENSES.

D. THE DEPARTMENT SHALL ENTER INTO A CONTRACT WITH A FINANCIAL INSTITUTION OR FINANCIAL INSTITUTIONS TO SERVE AS PROGRAM MANAGERS AND DEPOSITORIES. PROGRAM MANAGEMENT CONTRACTS SHALL PROVIDE THE TERMS AND CONDITIONS BY WHICH FINANCIAL INSTITUTIONS SHALL SELL INTERESTS IN THE FUND TO DESIGNATED BENEFICIARIES, INVEST MONIES IN THE FUND AND MANAGE THE PROGRAM.

E. THE DEPARTMENT MAY SELECT MORE THAN ONE FINANCIAL INSTITUTION AND INVESTMENT FOR THE PROGRAM IF THE DEPARTMENT CONCLUDES THAT THE CHOICE OF INSTRUMENT VEHICLES IS IN THE BEST INTEREST OF THE DESIGNATED BENEFICIARIES AND WILL NOT INTERFERE WITH THE PROMOTION OF THE PROGRAM.

F. A PROGRAM MANAGER SHALL:

1. TAKE ALL ACTION REQUIRED TO KEEP THE PROGRAM IN COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND ALL ACTION NOT CONTRARY TO THIS ARTICLE OR ITS CONTRACT TO MANAGE THE PROGRAM SO THAT IT IS TREATED AS A QUALIFIED ABLE PROGRAM UNDER 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.

2. KEEP ADEQUATE RECORDS OF EACH OF THE FUND'S ACCOUNTS, KEEP EACH ACCOUNT SEGREGATED FROM EACH OTHER ACCOUNT AND PROVIDE THE DEPARTMENT WITH THE INFORMATION NECESSARY TO PREPARE STATEMENTS REQUIRED BY 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION AND ANY ANNUAL REPORTS PREPARED BY THE DEPARTMENT.

3. PROVIDE REPRESENTATIVES OF THE DEPARTMENT OR OTHER STATE AGENCIES WITH ACCESS TO THE PROGRAM MANAGER'S BOOKS AND RECORDS TO THE EXTENT NEEDED TO DETERMINE COMPLIANCE WITH THE CONTRACT.

4. HOLD ALL OPERATING MONIES IN THE FUND IN THE NAME OF AND FOR THE BENEFIT OF THE FUND AND THIS STATE.

G. ANY CONTRACT EXECUTED BETWEEN THE DEPARTMENT AND A FINANCIAL INSTITUTION PURSUANT TO THIS SECTION SHALL BE FOR A TERM OF AT LEAST THREE YEARS AND NOT MORE THAN SEVEN YEARS.

H. THE DEPARTMENT MAY TERMINATE A CONTRACT WITH A FINANCIAL INSTITUTION AT ANY TIME FOR GOOD CAUSE ON THE RECOMMENDATION OF THE COMMITTEE. IF A CONTRACT IS TERMINATED PURSUANT TO THIS SUBSECTION, THE DEPARTMENT SHALL TAKE CUSTODY OF ACCOUNTS HELD AT THAT FINANCIAL INSTITUTION AND SHALL SEEK TO PROMPTLY TRANSFER THE ACCOUNTS TO ANOTHER FINANCIAL INSTITUTION THAT IS SELECTED AS A PROGRAM MANAGER AND INTO INVESTMENT INSTRUMENTS AS SIMILAR TO THE ORIGINAL INVESTMENTS AS POSSIBLE.

46-904. Incapacitated or minor eligible individual

A. IF AN ELIGIBLE INDIVIDUAL IS A MINOR OR AN INCAPACITATED ADULT, THE ACCOUNT MAY BE OPENED AND MANAGED BY ANY OF THE FOLLOWING AS LONG AS THE INDIVIDUALS LISTED ARE NOT IN CONFLICT WITH 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION:

1. AN AGENT UNDER A VALID POWER OF ATTORNEY SIGNED BY THE ELIGIBLE INDIVIDUAL AT A TIME WHEN THE ELIGIBLE INDIVIDUAL HAD CAPACITY TO EXECUTE THE POWER.

2. A PARENT OF A MINOR CHILD WHO IS AN ELIGIBLE INDIVIDUAL.

3. A COURT-APPOINTED CONSERVATOR OF THE ESTATE OF THE ELIGIBLE INDIVIDUAL.

4. A COURT-APPOINTED GUARDIAN OF THE ELIGIBLE INDIVIDUAL, WITH EXPRESS AUTHORIZATION.

B. IN ANY CASE IN WHICH A COURT AUTHORIZES THE CONSERVATOR OR GUARDIAN OF THE ELIGIBLE INDIVIDUAL TO OPEN AND MANAGE THE ACCOUNT, THE COURT, IN ITS DISCRETION, MAY WAIVE ANY REQUIREMENT OF FURTHER ACCOUNTING PURSUANT TO SECTION 14-5419 OR INCLUSION IN ANY BOND ESTABLISHED FOR THE CONSERVATORSHIP PURSUANT TO SECTION 14-5411.

46-905. Program requirements

A. THE PROGRAM SHALL REQUIRE:

1. A DESIGNATED BENEFICIARY TO HAVE ONLY ONE ACCOUNT.

2. A DESIGNATED BENEFICIARY TO DIRECT THE INVESTMENT OF ANY CONTRIBUTIONS TO THE PROGRAM OR ANY EARNINGS NOT MORE THAN TWO TIMES IN ANY CALENDAR YEAR.

3. CONTRIBUTIONS TO ACCOUNTS TO BE MADE ONLY IN CASH.

4. THAT ANY EXCESS CONTRIBUTIONS WITH RESPECT TO A DESIGNATED BENEFICIARY BE REJECTED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.

B. CONTRIBUTIONS TO AND EARNINGS ON A DESIGNATED BENEFICIARY'S ACCOUNT IN THIS OR ANY OTHER STATE SHALL NOT BE COUNTED AS INCOME OR RESOURCES OF THE DESIGNATED BENEFICIARY FOR THE PURPOSES OF ELIGIBILITY FOR ANY PROGRAM UNDER THIS TITLE OR TITLE 36, CHAPTER 29.

C. SUBJECT TO ANY OUTSTANDING PAYMENTS DUE FOR QUALIFIED DISABILITY EXPENSES, ON THE DEATH OF THE DESIGNATED BENEFICIARY, A CLAIM MAY BE FILED FOR PAYMENT OF ALL AMOUNTS REMAINING IN THE ACCOUNT NOT IN EXCESS OF THE AMOUNT EQUAL TO THE TOTAL MEDICAL ASSISTANCE PAID FOR THE DESIGNATED BENEFICIARY AFTER ESTABLISHMENT OF THE ACCOUNT AS AUTHORIZED BY 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.

D. AN ACCOUNT MAY BE OPENED BY A DESIGNATED BENEFICIARY BY COMPLETING AN APPLICATION IN THE FORM PRESCRIBED BY THE DEPARTMENT. SEPARATE RECORDS AND ACCOUNTING SHALL BE MAINTAINED FOR EACH ACCOUNT FOR EACH DESIGNATED BENEFICIARY.

E. A DESIGNATED BENEFICIARY MAY NOT USE AN INTEREST IN AN ACCOUNT AS SECURITY FOR A LOAN. ANY PLEDGE OF AN INTEREST IN AN ACCOUNT IS OF NO FORCE AND EFFECT.

F. THE FINANCIAL INSTITUTION SHALL PROVIDE STATEMENTS TO EACH DESIGNATED BENEFICIARY AT LEAST ONCE EACH YEAR WITHIN THIRTY-ONE DAYS AFTER THE TWELVE-MONTH PERIOD TO WHICH THEY RELATE. THE STATEMENT SHALL IDENTIFY THE CONTRIBUTIONS MADE DURING A PRECEDING TWELVE-MONTH PERIOD, THE TOTAL CONTRIBUTIONS MADE THROUGH THE END OF THE PERIOD, THE VALUE OF THE ACCOUNT AS

OF THE END OF THIS PERIOD, DISTRIBUTIONS MADE DURING THIS PERIOD AND ANY OTHER MATTERS THAT THE DEPARTMENT REQUIRES BE REPORTED TO THE ACCOUNT OWNER.

G. STATEMENTS AND INFORMATION RETURNS RELATING TO ACCOUNTS SHALL BE PREPARED AND FILED TO THE EXTENT REQUIRED BY FEDERAL OR STATE LAW.

H. ANY SOCIAL SECURITY NUMBERS, ADDRESSES OR TELEPHONE NUMBERS OF DESIGNATED BENEFICIARIES THAT COME INTO THE POSSESSION OF THE DEPARTMENT ARE CONFIDENTIAL, ARE NOT PUBLIC RECORDS AND SHALL NOT BE RELEASED BY THE DEPARTMENT.

46-906. Limitations of article

A. THIS ARTICLE DOES NOT:

1. GIVE ANY DESIGNATED BENEFICIARY ANY RIGHTS OR LEGAL INTEREST IN AN ACCOUNT UNLESS THE DESIGNATED BENEFICIARY IS THE ACCOUNT OWNER.

2. GUARANTEE THAT AN ELIGIBLE INDIVIDUAL WILL RECEIVE SERVICES FROM A DEPARTMENT OR AGENCY OF THIS STATE RELATED TO THE ELIGIBLE INDIVIDUAL'S DISABILITY.

3. GUARANTEE THAT THE AMOUNTS DEPOSITED IN AN ELIGIBLE INDIVIDUAL'S ACCOUNT AND ANY EARNINGS ON THAT ACCOUNT PURSUANT TO THE PROGRAM WILL BE SUFFICIENT TO COVER ANY QUALIFIED DISABILITY EXPENSE OF THE ELIGIBLE INDIVIDUAL.

B. THIS ARTICLE DOES NOT ESTABLISH ANY OBLIGATION OF THIS STATE OR ANY AGENCY OF THIS STATE TO GUARANTEE FOR THE BENEFIT OF ANY ELIGIBLE INDIVIDUAL, CONTRIBUTOR TO AN ACCOUNT OR DESIGNATED BENEFICIARY ANY OF THE FOLLOWING:

1. THE RETURN OF ANY AMOUNTS CONTRIBUTED TO AN ACCOUNT.

2. THE RATE OF INTEREST OR OTHER RETURN ON ANY ACCOUNT.

3. THE PAYMENT OF INTEREST OR OTHER RETURN ON ANY ACCOUNT.

C. EVERY CONTRACT, APPLICATION, DEPOSIT SLIP OR OTHER SIMILAR DOCUMENT THAT MAY BE USED IN CONNECTION WITH A CONTRIBUTION TO AN ACCOUNT SHALL CLEARLY INDICATE THAT THE ACCOUNT IS NOT INSURED BY THIS STATE AND NEITHER THE PRINCIPAL DEPOSITED NOR THE INVESTMENT RETURN IS GUARANTEED BY THIS STATE.

46-907. Achieving a better life experience act oversight committee; termination

A. THE ACHIEVING A BETTER LIFE EXPERIENCE ACT OVERSIGHT COMMITTEE IS ESTABLISHED IN THE DEPARTMENT CONSISTING OF THE FOLLOWING MEMBERS:

1. THE DIRECTOR OF THE DEPARTMENT OR THE DIRECTOR'S DESIGNEE.

2. THE STATE TREASURER OR THE STATE TREASURER'S DESIGNEE.

3. ONE MEMBER WHO HAS KNOWLEDGE, SKILL AND EXPERIENCE IN INVESTMENT, ASSET MANAGEMENT OR FINANCIAL-RELATED EXPERIENCE AND WHO IS APPOINTED BY THE GOVERNOR.

4. ONE MEMBER WHO IS A LICENSED ATTORNEY IN THIS STATE, WHO HAS KNOWLEDGE, SKILL AND EXPERIENCE IN SPECIAL NEEDS TRUSTS AND DISABILITY ISSUES AND WHO IS APPOINTED BY THE GOVERNOR.

5. ONE MEMBER WHO IS AN ELIGIBLE INDIVIDUAL AND WHO IS APPOINTED BY THE GOVERNOR.

6. ONE MEMBER WHO IS A FAMILY MEMBER OF AN ELIGIBLE INDIVIDUAL AND WHO IS APPOINTED BY THE GOVERNOR.

7. ONE REPRESENTATIVE OF A COMMUNITY-BASED ORGANIZATION THAT SUPPORTS OR ADVOCATES FOR INDIVIDUALS WITH DISABILITIES WHO IS APPOINTED BY THE GOVERNOR.

B. THE COMMITTEE SHALL SELECT A CHAIRPERSON FROM THE COMMITTEE'S MEMBERSHIP. THE COMMITTEE SHALL MEET AT LEAST ONCE EACH CALENDAR QUARTER.

C. APPOINTED COMMITTEE MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611 FOR EACH DAY OF ATTENDANCE AT COMMITTEE MEETINGS.

D. THE COMMITTEE SHALL:

1. MAKE RECOMMENDATIONS AND PROVIDE GUIDANCE FOR THE ESTABLISHMENT, IMPLEMENTATION AND IMPROVEMENT OF THE PROGRAM, INCLUDING STATUTORY AND RULE CHANGES.

2. MAKE RECOMMENDATIONS REGARDING THE SELECTION OF ONE OR MORE FINANCIAL INSTITUTIONS TO ACT AS DEPOSITORIES AND MANAGERS OF THE ACCOUNTS.

3. REVIEW REGULATIONS ADOPTED BY THE UNITED STATES SECRETARY OF THE TREASURY AND IDENTIFY CHANGES NECESSARY FOR PROGRAM COMPLIANCE.

4. PROVIDE ADVICE REGARDING REQUIREMENTS FOR DISBURSEMENTS FROM ACCOUNTS FOR QUALIFIED DISABILITY EXPENSES.

5. MONITOR THE USE AND EFFECTIVENESS OF THE PROGRAM, INCLUDING THE NUMBER OF ACCOUNTS ESTABLISHED AND USED, THE NUMBER OF DESIGNATED BENEFICIARIES BEING SERVED, A DESCRIPTION OF THE TYPES OF DISABILITIES THE DESIGNATED BENEFICIARIES HAVE AND THE TYPES OF EXPENSES FOR WHICH DISBURSEMENTS HAVE BEEN MADE.

E. MEMBERS OF THE COMMITTEE ARE IMMUNE FROM PERSONAL LIABILITY WITH RESPECT TO ALL ACTIONS THAT ARE TAKEN IN GOOD FAITH AND WITHIN THE SCOPE OF THE COMMITTEE'S AUTHORITY.

F. APPOINTED COMMITTEE MEMBERS SERVE FOUR-YEAR TERMS AND MAY NOT SERVE MORE THAN TWO TERMS ON THE COMMITTEE.

G. THE COMMITTEE ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2024 PURSUANT TO SECTION 41-3103.

46-908. Program termination

THE PROGRAM ESTABLISHED BY THIS ARTICLE ENDS ON JULY 1, 2026 PURSUANT TO SECTION 41-3102.

Sec. 6. Annual report

The department of economic security shall submit an annual report for seven years after the effective date of this section to the speaker of the house of representatives, the president of the senate and the governor that summarizes the effectiveness of the program, including the number of accounts established and used, the number of designated beneficiaries being served, a description of the types of disabilities the designated beneficiaries have and a summary of the qualified disability expenses that disbursements from the accounts are being used for. The first annual report is due on or before December 31, 2017. The remaining four reports are due on or before December 31 of each year thereafter.

Sec. 7. Initial terms of members of the achieving a better life experience act oversight committee

A. Notwithstanding section 46-907, Arizona Revised Statutes, the initial terms of members of the achieving a better life experience act oversight committee are as follows:

1. The members who are appointed pursuant to section 46-907, subsection A, paragraphs 3, 4 and 7, Arizona Revised Statutes, serve terms ending January 31, 2018.

2. The members who are appointed pursuant to section 46-907, subsection A, paragraphs 5 and 6, Arizona Revised Statutes, serve terms ending January 31, 2020.

B. The governor shall make all subsequent appointments as prescribed by statute.

Sec. 8. Rulemaking

A. On or before July 1, 2017, the department of economic security shall establish the rules necessary to implement the achieving a better life experience act program established by title 46, chapter 8, Arizona Revised Statutes, as added by this act.

B. For the purposes of this act, the department of economic security is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act. The department shall consult with the achieving a better life experience act oversight committee established by section 46-907, Arizona Revised Statutes, as added by this act, when drafting the rules and shall provide a thirty-day public comment period on the draft rules and hold at least one public hearing before adopting the rules.

Sec. 9. Department of economic security; appropriation; exemption

A. The sum of $240,000 is appropriated from the state general fund in fiscal year 2016-2017 to the department of economic security to implement and administer the achieving a better life experience act program established by title 46, chapter 8, Arizona Revised Statutes, as added by this act.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Sec. 10. Retroactivity

Sections 43-1021 and 43-1022, Arizona Revised Statutes, as amended by this act apply retroactively to taxable years beginning from and after December 31, 2015.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.

Passed the House February 29, 20 16

by the following vote: 56 Ayes,

3 Nays, 1 Not Voting

Speaker of the House

Pro Tempore

Chief Clerk of the House

Passed the Senate May 5, 20 16

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

16th day of May, 20 16

at 10:21 o'clock A. M.

Secretary to the Governor

Approved this 12th day of

May

at 9:23 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12TH day of May, 20 16

at 10:22 o'clock A M.

Secretary of State

H.B. 2388