



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

March 25, 2020

The Honorable Katie Hobbs  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bill from the Fifty-fourth Legislature, 2nd Regular Session, which I signed on March 25th, 2020:

H.B. 2668 hospitals; unreimbursed costs; assessment; fund (Cobb)

Sincerely,

Douglas A. Ducey  
Governor  
State of Arizona

cc: Senate Secretary  
Chief Clerk of the House of Representatives  
Arizona News Service

House Engrossed

hospitals; unreimbursed costs; assessment; fund

**FILED**  
**KATIE HOBBS**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

**CHAPTER 46**  
**HOUSE BILL 2668**

AN ACT

AMENDING SECTION 36-2903.08, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-2903.08, Arizona Revised Statutes, is amended  
3 to read:

4 36-2903.08. AHCCCS uncompensated care; hospital assessment;  
5 reports

6 A. On or before October 1, ~~2014~~, and annually thereafter EACH YEAR,  
7 the Arizona health care cost containment system administration shall  
8 report to the speaker of the house of representatives, the president of  
9 the senate, THE CHAIRPERSONS OF THE APPROPRIATIONS COMMITTEES OF THE HOUSE  
10 OF REPRESENTATIVES AND THE SENATE and the directors of the joint  
11 legislative budget committee and the governor's office of strategic  
12 planning and budgeting on the change in uncompensated hospital costs  
13 experienced by hospitals in this state and hospital profitability during  
14 the previous fiscal year.

15 B. On or before August 1, ~~2014~~, and annually thereafter EACH YEAR,  
16 the Arizona health care cost containment system administration shall  
17 report to the speaker of the house of representatives, the president of  
18 the senate, THE CHAIRPERSONS OF THE APPROPRIATIONS COMMITTEES OF THE HOUSE  
19 OF REPRESENTATIVES AND THE SENATE and the directors of the joint  
20 legislative budget committee and the governor's office of strategic  
21 planning and budgeting the following:

22 1. The AGGREGATE amount each hospital contributed for the hospital  
23 ~~assessment~~ ASSESSMENTS authorized pursuant to ~~section~~ SECTIONS 36-2901.08  
24 AND 36-2999.72 in the previous fiscal year.

25 2. The AGGREGATE amount of estimated payments each hospital  
26 received from the coverage AND DIRECTED PAYMENTS funded by the assessment.

27 Sec. 2. Title 36, chapter 29, Arizona Revised Statutes, is amended  
28 by adding article 7, to read:

29 ARTICLE 7. HEALTH CARE FINANCIAL STABILIZATION

30 36-2999.71. Definitions

31 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

32 1. "ADMINISTRATION" HAS THE SAME MEANING PRESCRIBED IN SECTION  
33 36-2901.

34 2. "BASE REIMBURSEMENT LEVEL":

35 (a) MEANS THE TOTAL EXPENDITURES BY THE ARIZONA HEALTH CARE COST  
36 CONTAINMENT SYSTEM AND ITS CONTRACTED HEALTH PLANS FOR HOSPITAL SERVICES  
37 TO ELIGIBLE PERSONS IN STATE FISCAL YEAR 2019-2020.

38 (b) DOES NOT INCLUDE DIRECTED PAYMENTS MADE PURSUANT TO THIS  
39 ARTICLE OR PAYMENTS MADE THROUGH THE PEDIATRIC SERVICES INITIATIVE  
40 PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION 438.6(c).

41 3. "DIRECTOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2901.

42 36-2999.72. Hospital assessment; rules; collection;  
43 enforcement

44 A. IN ADDITION TO THE ASSESSMENT ESTABLISHED PURSUANT TO SECTION  
45 36-2901.08, BEGINNING OCTOBER 1, 2020, THE DIRECTOR SHALL ESTABLISH,

1 ADMINISTER AND COLLECT AN ASSESSMENT ON HOSPITAL REVENUES, DISCHARGES OR  
2 BED DAYS WITH RESPECT TO INPATIENT OR OUTPATIENT SERVICES, OR BOTH, FOR  
3 THE PURPOSES PRESCRIBED IN SECTION 36-2999.73.

4 B. THE DIRECTOR SHALL ADOPT RULES REGARDING THE METHOD FOR  
5 DETERMINING THE ASSESSMENT, THE AMOUNT OR RATE OF THE ASSESSMENT AND  
6 MODIFICATIONS TO OR EXEMPTIONS FROM THE ASSESSMENT. THE ASSESSMENT IS  
7 SUBJECT TO APPROVAL BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES TO  
8 ENSURE THAT THE ASSESSMENT IS NOT ESTABLISHED OR ADMINISTERED IN A MANNER  
9 THAT CAUSES A REDUCTION IN FEDERAL FINANCIAL PARTICIPATION.

10 C. THE DIRECTOR MAY ESTABLISH MODIFICATIONS TO OR EXEMPTIONS FROM  
11 THE ASSESSMENT. IN DETERMINING THE MODIFICATIONS OR EXEMPTIONS, THE  
12 DIRECTOR MAY CONSIDER SUCH FACTORS AS THE SIZE OF THE HOSPITAL, THE  
13 SPECIALTY SERVICES AVAILABLE TO PATIENTS AT THE HOSPITAL AND THE  
14 GEOGRAPHIC LOCATION OF THE HOSPITAL.

15 D. THE DIRECTOR SHALL PRESENT ANY CHANGE TO THE HOSPITAL ASSESSMENT  
16 METHODOLOGY TO THE JOINT LEGISLATIVE BUDGET COMMITTEE FOR REVIEW.

17 E. THE ADMINISTRATION SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146  
18 AND 35-147, THE MONIES COLLECTED PURSUANT TO THIS SECTION IN THE HEALTH  
19 CARE INVESTMENT FUND ESTABLISHED BY SECTION 36-2999.73.

20 F. A HOSPITAL MAY NOT PASS THE COST OF THE ASSESSMENT ON TO  
21 PATIENTS OR THIRD-PARTY PAYORS THAT ARE LIABLE TO PAY FOR CARE ON A  
22 PATIENT'S BEHALF. AS PART OF ITS FINANCIAL STATEMENT SUBMISSIONS PURSUANT  
23 TO SECTION 36-125.04, A HOSPITAL SHALL SUBMIT TO THE DEPARTMENT OF HEALTH  
24 SERVICES AN ATTESTATION THAT IT HAS NOT PASSED ON THE COST OF THE  
25 ASSESSMENT TO PATIENTS OR THIRD-PARTY PAYORS.

26 G. IF A HOSPITAL DOES NOT COMPLY WITH THIS SECTION AS PRESCRIBED BY  
27 THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, THE  
28 DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM MAY SUSPEND OR  
29 REVOKE THE HOSPITAL'S ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM PROVIDER  
30 AGREEMENT REGISTRATION. IF THE HOSPITAL DOES NOT COMPLY WITHIN ONE  
31 HUNDRED EIGHTY DAYS AFTER THE DIRECTOR OF THE ARIZONA HEALTH CARE COST  
32 CONTAINMENT SYSTEM SUSPENDS OR REVOKES THE HOSPITAL'S PROVIDER AGREEMENT,  
33 THE DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM SHALL  
34 NOTIFY THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES, WHO SHALL  
35 SUSPEND OR REVOKE THE HOSPITAL'S LICENSE PURSUANT TO SECTION 36-427.

36 36-2999.73. Health care investment fund; purposes; approval

37 A. THE HEALTH CARE INVESTMENT FUND IS ESTABLISHED CONSISTING OF THE  
38 FOLLOWING:

- 39 1. MONIES DEPOSITED IN THE FUND PURSUANT TO SECTION 36-2999.72.
- 40 2. INTEREST EARNED PURSUANT TO THIS SECTION.
- 41 3. LEGISLATIVE APPROPRIATIONS.

42 B. THE DIRECTOR SHALL ADMINISTER THE HEALTH CARE INVESTMENT FUND.  
43 THE DIRECTOR MAY NOT USE FUND MONIES TO PAY FOR THE BASE REIMBURSEMENT  
44 LEVEL FOR HOSPITAL SERVICES. THE DIRECTOR SHALL USE FUND MONIES AS

1 NECESSARY ONLY FOR THE PURPOSE OF FUNDING THE NONFEDERAL SHARE OF THE COST  
2 FOR THE FOLLOWING:

3 1. TO MAKE DIRECTED PAYMENTS TO HOSPITALS PURSUANT TO 42 CODE OF  
4 FEDERAL REGULATIONS SECTION 438.6(c) THAT SUPPLEMENT THE BASE  
5 REIMBURSEMENT LEVEL FOR HOSPITAL SERVICES TO ELIGIBLE PERSONS AS DEFINED  
6 IN SECTION 36-2901.

7 2. TO INCREASE BASE REIMBURSEMENT RATES FOR SERVICES REIMBURSED  
8 UNDER THE ADMINISTRATION'S DENTAL FEE SCHEDULE AND PHYSICIAN FEE SCHEDULE,  
9 NOT INCLUDING THE PHYSICIAN DRUG FEE SCHEDULE, TO THE EXTENT NECESSARY AS  
10 DETERMINED BY THE ADMINISTRATION TO RESTORE THESE PROVIDERS' RATES TO THE  
11 RATE LEVELS IN EXISTENCE BEFORE FISCAL YEAR 2008-2009, IF THESE EXPENSES  
12 DO NOT EXCEED THE LESSER OF \$70,500,000 OR TWENTY PERCENT OF THE TOTAL  
13 ASSESSMENT MONIES DEPOSITED PURSUANT TO SECTION 36-2999.72 FOR THE FISCAL  
14 YEAR.

15 3. TO PAY FOR THE NONFEDERAL SHARE OF THE COSTS FOR ADMINISTRATIVE  
16 EXPENSES INCURRED BY THE ADMINISTRATION OR ITS AGENTS IN PERFORMING THE  
17 ACTIVITIES AUTHORIZED BY THIS SECTION, IF THESE EXPENSES DO NOT EXCEED ONE  
18 PERCENT OF THE TOTAL ASSESSMENT MONIES DEPOSITED PURSUANT TO SECTION  
19 36-2999.72 FOR THE FISCAL YEAR.

20 C. THE ADMINISTRATION SHALL DEVELOP A PROCESS TO ENSURE THAT  
21 CONTRACTORS PASS THROUGH DIRECTED PAYMENTS TO ELIGIBLE PROVIDERS IN A  
22 TIMELY MANNER. CONTRACTORS MAY NOT REDUCE CONTRACTED RATES AS A RESULT OF  
23 DIRECTED PAYMENTS.

24 D. MONIES IN THE HEALTH CARE INVESTMENT FUND:

25 1. ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO  
26 LAPSING OF APPROPRIATIONS.

27 2. ARE CONTINUOUSLY APPROPRIATED.

28 3. ARE TO BE CREDITED AGAINST THE TOTAL HOSPITAL ASSESSMENT TO BE  
29 COLLECTED PURSUANT TO SECTION 36-2999.72 FOR THE SUBSEQUENT FISCAL YEAR IF  
30 NOT EXPENDED FOR THE PURPOSES AUTHORIZED UNDER THIS SECTION WITHIN THE  
31 SAME FISCAL YEAR THE MONIES ARE DEPOSITED IN THE FUND.

32 4. MAY NOT BE USED TO SUPPLANT EXISTING AND FUTURE APPROPRIATIONS  
33 TO THE ADMINISTRATION FOREXISTING AND FUTURE PROGRAMS.

34 E. THE ADMINISTRATION MAY NOT USE THE MONIES IN THE HEALTH CARE  
35 INVESTMENT FUND PURSUANT TO THIS SECTION UNTIL THE CENTERS FOR MEDICARE  
36 AND MEDICAID SERVICES APPROVES THE USE OF THE ASSESSMENT MONIES FOR  
37 DIRECTED HOSPITAL EXPENDITURES PURSUANT TO 42 CODE OF FEDERAL REGULATIONS  
38 SECTION 438.6(c) AND FEDERAL FINANCIAL PARTICIPATION ELIGIBILITY FOR THE  
39 DIRECTED HOSPITAL EXPENDITURES CONTEMPLATED UNDER THIS SECTION.

40 F. ON NOTICE FROM THE ADMINISTRATION, THE STATE TREASURER SHALL  
41 INVEST AND DIVEST MONIES IN THE HEALTH CARE INVESTMENT FUND AS PROVIDED BY  
42 SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE  
43 FUND.

1           Sec. 3. AHCCCS; rulemaking exemption

2           For the purposes of this act, the Arizona health care cost  
3 containment system is exempt from the rulemaking requirements of title 41,  
4 chapter 6, Arizona Revised Statutes, for one year after the effective date  
5 of this act.

6           Sec. 4. Conditional repeal; refund; notice

7           A. Title 36, chapter 29, article 7, Arizona Revised Statutes, as  
8 added by this act, is repealed as of the effective date for which the  
9 centers for medicare and medicaid services notifies the Arizona health  
10 care cost containment system administration that the centers for medicare  
11 and medicaid services has made a final determination that the hospital  
12 assessment established pursuant to section 36-2999.72, Arizona Revised  
13 Statutes, as added by this act, is no longer eligible for federal  
14 financial participation. The administration shall refund any monies  
15 remaining in the health care investment fund established by section  
16 36-2999.73, Arizona Revised Statutes, as added by this act, to hospitals  
17 in proportion to the amounts paid by each hospital. The refund amount  
18 shall be reduced for any authorized expenditures associated with a period  
19 for which the hospital assessment is eligible for federal financial  
20 participation.

21           B. The administration shall notify in writing the director of the  
22 Arizona legislative council of this date.

**APPROVED BY THE GOVERNOR MARCH 25, 2020.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 25, 2020.**

Passed the House March 4, 20 20

Passed the Senate March 18, 20 20

by the following vote: 57 Ayes,

by the following vote: 23 Ayes,

3 Nays, 0 Not Voting

4 Nays, 3 Not Voting

W. R. Boyce  
Speaker of the House

Karen Farn  
President of the Senate

Pro Tempore

Jim Drake  
Chief Clerk of the House

Susan Owens  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

19<sup>th</sup> day of March, 20 20

at 11:30 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 25<sup>th</sup> day of

March 2020

at 4:12 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 25<sup>th</sup> day of March, 20 20

at 4:58 o'clock P. M.

[Signature]  
Secretary of State

H.B. 2668