

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2213

AN ACT

AMENDING SECTIONS 4-116 AND 8-291, ARIZONA REVISED STATUTES; AMENDING SECTION 11-251, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 238, SECTION 1; REPEALING SECTION 11-251, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 2; AMENDING SECTIONS 13-753, 13-4501 AND 15-761, ARIZONA REVISED STATUTES; AMENDING SECTION 15-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 8, SECTION 2 AND LAWS 2010, SECOND REGULAR SESSION, CHAPTER 220, SECTION 2, CHAPTER 306, SECTION 6 AND CHAPTER 332, SECTION 15; REPEALING SECTION 15-901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 318, SECTION 12; AMENDING SECTIONS 15-943, 15-948, 15-976, 20-826, 20-1342.01, 20-1407, 23-503.01, 36-104, 36-137, 36-203, 36-261, 36-501, 36-551, 36-591, 36-712, 36-2936, 36-2939, 41-173, 41-1954 AND 41-1981, ARIZONA REVISED STATUTES; RELATING TO DEVELOPMENTAL AND INTELLECTUAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-116, Arizona Revised Statutes, is amended to
3 read:

4 4-116. Receipts from club licenses and applications

5 Notwithstanding any provision of law to the contrary, all receipts
6 derived from club licenses and applications therefor are appropriated to the
7 department of ~~mental-retardation~~ ECONOMIC SECURITY for buildings, equipment
8 or other capital investments. All revenue so received by the department
9 shall be deposited, pursuant to sections 35-146 and 35-147, in the ~~department~~
10 ~~of-mental-retardation-capital-investment~~ ECONOMIC SECURITY CAPITAL
11 INVESTMENTS fund.

12 Sec. 2. Section 8-291, Arizona Revised Statutes, is amended to read:

13 8-291. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Clinical liaison" means a mental health expert or another
16 individual who has experience and training in mental health or developmental
17 disabilities and who is qualified and appointed by the court to aid in
18 coordinating the treatment or training of juveniles who are found incompetent
19 to stand trial. If ~~mental-retardation~~ DEVELOPMENTAL DISABILITY is an issue,
20 the clinical liaison shall be an expert in ~~mental-retardation~~ DEVELOPMENTAL
21 DISABILITY.

22 2. "Incompetent" means a juvenile who does not have sufficient present
23 ability to consult with the juvenile's lawyer with a reasonable degree of
24 rational understanding or who does not have a rational and factual
25 understanding of the proceedings against the juvenile. Age alone does not
26 render a person incompetent.

27 3. "Juvenile" means a person who is under eighteen years of age at the
28 time the issue of competency is raised.

29 4. "Mental health expert" means a physician who is licensed pursuant
30 to title 32, chapter 13 or 17 or a psychologist who is licensed pursuant to
31 title 32, chapter 19.1 and who is all of the following:

32 (a) Familiar with this state's competency standards and statutes.

33 (b) Familiar with the treatment, training and restoration programs
34 that are available in this state.

35 (c) Certified by the court as meeting court developed guidelines.

36 Sec. 3. Section 11-251, Arizona Revised Statutes, as amended by Laws
37 2010, chapter 238, section 1, is amended to read:

38 11-251. Powers of board

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

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

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

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

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

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

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

15 6. Provide suitable rooms for county purposes.

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

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

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

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

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

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

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

29 13. Equalize assessments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 28. Sell or grant to the United States the title or interest of the
31 county in any toll road or toll train in or partly within a national park,
32 ~~upon~~ ON such terms ~~and consideration~~ as may be agreed ~~upon~~ ON by the board
33 and the secretary of the interior of the United States.

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

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

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

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

6 32. Budget for funds for foster home care during the school week for
7 ~~mentally-retarded~~ CHILDREN WITH INTELLECTUAL DISABILITIES and otherwise
8 handicapped children who reside within the county and attend a school for the
9 handicapped in a city or town within such county.

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

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

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

22 36. Subject to the prohibitions, restrictions and limitations as set
23 forth in section ~~11-830~~ 11-812, adopt and enforce standards for excavation,
24 landfill and grading to prevent unnecessary loss from erosion, flooding and
25 landslides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Sec. 4. Repeal

23 Section 11-251, Arizona Revised Statutes, as amended by Laws 2010,
24 chapter 244, section 2, is repealed.

25 Sec. 5. Section 13-753, Arizona Revised Statutes, is amended to read:

26 13-753. Mental evaluations of capital defendants: hearing:
27 appeal: definitions

28 A. In any case in which the state files a notice of intent to seek the
29 death penalty, a person who is found to have ~~mental-retardation~~ **AN**
30 **INTELLECTUAL DISABILITY** pursuant to this section shall not be sentenced to
31 death but shall be sentenced to life or natural life.

32 B. If the state files a notice of intent to seek the death penalty,
33 the court, unless the defendant objects, shall appoint a prescreening
34 psychological expert in order to determine the defendant's intelligence
35 quotient using current community, nationally and culturally accepted
36 intelligence testing procedures. The prescreening psychological expert shall
37 submit a written report of the intelligence quotient determination to the
38 court within ten days of the testing of the defendant. If the defendant
39 objects to the prescreening, the defendant waives the right to a pretrial
40 determination of ~~mental-retardation~~ status. The waiver does not preclude the
41 defendant from offering evidence of the defendant's ~~mental-retardation~~
42 **INTELLECTUAL DISABILITY** in the penalty phase.

43 C. If the prescreening psychological expert determines that the
44 defendant's intelligence quotient is higher than seventy-five, the notice of
45 intent to seek the death penalty shall not be dismissed on the ground that

1 the defendant has ~~mental-retardation~~ AN INTELLECTUAL DISABILITY. If the
2 prescreening psychological expert determines that the defendant's
3 intelligence quotient is higher than seventy-five, the report shall be sealed
4 by the court and be available only to the defendant. The report shall be
5 released on the motion of any party if the defendant introduces the report in
6 the present case or is convicted of an offense in the present case and the
7 sentence is final. A prescreening determination that the defendant's
8 intelligence quotient is higher than seventy-five does not prevent the
9 defendant from introducing evidence of the defendant's ~~mental-retardation~~
10 INTELLECTUAL DISABILITY or diminished mental capacity at the penalty phase of
11 the sentencing proceeding.

12 D. If the prescreening psychological expert determines that the
13 defendant's intelligence quotient is seventy-five or less, the trial court,
14 within ten days of receiving the written report, shall order the state and
15 the defendant to each nominate three experts in ~~mental-retardation~~
16 INTELLECTUAL DISABILITIES, or jointly nominate a single expert in ~~mental-~~
17 ~~retardation~~ INTELLECTUAL DISABILITIES. The trial court shall appoint one
18 expert in ~~mental-retardation~~ INTELLECTUAL DISABILITIES nominated by the state
19 and one expert in ~~mental-retardation~~ INTELLECTUAL DISABILITIES nominated by
20 the defendant, or a single expert in ~~mental-retardation~~ INTELLECTUAL
21 DISABILITIES jointly nominated by the state and the defendant, none of whom
22 made the prescreening determination of the defendant's intelligence quotient.
23 The trial court, in its discretion, may appoint an additional expert in
24 ~~mental-retardation~~ INTELLECTUAL DISABILITIES who was neither nominated by the
25 state nor the defendant, and who did not make the prescreening determination
26 of the defendant's intelligence quotient. Within forty-five days after the
27 trial court orders the state and the defendant to nominate experts in ~~mental-~~
28 ~~retardation~~ INTELLECTUAL DISABILITIES, or on the appointment of such experts,
29 whichever is later, the state and the defendant shall provide to the experts
30 in ~~mental-retardation~~ INTELLECTUAL DISABILITIES and the court any available
31 records that may be relevant to the defendant's ~~mental-retardation~~ status.
32 The court may extend the deadline for providing records on good cause shown
33 by the state or defendant.

34 E. Not less than twenty days after receipt of the records provided
35 pursuant to subsection D ~~of this section~~, or twenty days after the expiration
36 of the deadline for providing the records, whichever is later, each expert in
37 ~~mental-retardation~~ INTELLECTUAL DISABILITY shall examine the defendant using
38 current community, nationally and culturally accepted physical,
39 developmental, psychological and intelligence testing procedures, for the
40 purpose of determining whether the defendant has ~~mental-retardation~~ AN
41 INTELLECTUAL DISABILITY. Within fifteen days of examining the defendant,
42 each expert in ~~mental-retardation~~ INTELLECTUAL DISABILITIES shall submit a
43 written report to the trial court that includes the expert's opinion as to
44 whether the defendant has ~~mental-retardation~~ AN INTELLECTUAL DISABILITY.

1 F. If the scores on all the tests for intelligence quotient
2 administered to the defendant are above seventy, the notice of intent to seek
3 the death penalty shall not be dismissed on the ground that the defendant has
4 ~~mental-retardation~~ AN INTELLECTUAL DISABILITY. This does not preclude the
5 defendant from introducing evidence of the defendant's ~~mental-retardation~~
6 INTELLECTUAL DISABILITY or diminished mental capacity at the penalty phase of
7 the sentencing proceeding.

8 G. No less than thirty days after the experts in ~~mental-retardation~~
9 INTELLECTUAL DISABILITIES submit reports to the court and before trial, the
10 trial court shall hold a hearing to determine if the defendant has ~~mental-~~
11 ~~retardation~~ AN INTELLECTUAL DISABILITY. At the hearing, the defendant has
12 the burden of proving ~~mental-retardation~~ INTELLECTUAL DISABILITY by clear and
13 convincing evidence. A determination by the trial court that the defendant's
14 intelligence quotient is sixty-five or lower establishes a rebuttable
15 presumption that the defendant has ~~mental-retardation~~ AN INTELLECTUAL
16 DISABILITY. ~~Nothing in~~ This subsection shall DOES NOT preclude a defendant
17 with an intelligence quotient of seventy or below from proving ~~mental-~~
18 ~~retardation~~ INTELLECTUAL DISABILITY by clear and convincing evidence.

19 H. If the trial court finds that the defendant has ~~mental-retardation~~
20 AN INTELLECTUAL DISABILITY, the trial court shall dismiss the intent to seek
21 the death penalty, shall not impose a sentence of death on the defendant if
22 the defendant is convicted of first degree murder and shall dismiss one of
23 the attorneys appointed under rule 6.2, Arizona rules of criminal procedure,
24 unless the court finds that there is good cause to retain both attorneys. If
25 the trial court finds that the defendant does not have ~~mental-retardation~~ AN
26 INTELLECTUAL DISABILITY, the court's finding does not prevent the defendant
27 from introducing evidence of the defendant's ~~mental-retardation~~ INTELLECTUAL
28 DISABILITY or diminished mental capacity at the penalty phase of the
29 sentencing proceeding.

30 I. Within ten days after the trial court makes a finding on ~~mental-~~
31 ~~retardation~~ INTELLECTUAL DISABILITY, the state or the defendant may file a
32 petition for special action with the Arizona court of appeals pursuant to the
33 rules of procedure for special actions. The filing of the petition for
34 special action is governed by the rules of procedure for special actions,
35 except that the court of appeals shall exercise jurisdiction and decide the
36 merits of the claims raised.

37 J. This section applies to all capital sentencing proceedings.

38 K. For the purposes of this section, unless the context otherwise
39 requires:

40 1. "Adaptive behavior" means the effectiveness or degree to which the
41 defendant meets the standards of personal independence and social
42 responsibility expected of the defendant's age and cultural group.

43 2. "Expert in ~~mental-retardation~~ INTELLECTUAL DISABILITIES" means a
44 psychologist or physician licensed pursuant to title 32, chapter 13, 17 or
45 19.1 with at least five years' experience in the testing or testing

1 assessment, evaluation and diagnosis of ~~mental-retardation~~ INTELLECTUAL
2 DISABILITIES.

3 3. "~~Mental-retardation~~ INTELLECTUAL DISABILITY" means a condition
4 based on a mental deficit that involves significantly subaverage general
5 intellectual functioning, existing concurrently with significant impairment
6 in adaptive behavior, where the onset of the foregoing conditions occurred
7 before the defendant reached the age of eighteen.

8 4. "Prescreening psychological expert" means a psychologist licensed
9 pursuant to title 32, chapter 19.1 with at least five years' experience in
10 the testing, evaluation and diagnosis of ~~mental-retardation~~ INTELLECTUAL
11 DISABILITIES.

12 5. "Significantly subaverage general intellectual functioning" means a
13 full scale intelligence quotient of seventy or lower. The court in
14 determining the intelligence quotient shall take into account the margin of
15 error for the test administered.

16 Sec. 6. Section 13-4501, Arizona Revised Statutes, is amended to read:
17 13-4501. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Clinical liaison" means a mental health expert or any other
20 individual who has experience and training in mental health or developmental
21 disabilities and who is qualified and appointed by the court to aid in
22 coordinating the treatment or training of individuals who are found
23 incompetent to stand trial. If ~~mental-retardation~~ INTELLECTUAL DISABILITY is
24 an issue, the clinical liaison shall be an expert in ~~mental-retardation~~
25 INTELLECTUAL DISABILITIES.

26 2. "Incompetent to stand trial" means that as a result of a mental
27 illness, defect or disability a defendant is unable to understand the nature
28 and object of the proceeding or to assist in the defendant's defense. In the
29 case of a person under eighteen years of age when the issue of competency is
30 raised, incompetent to stand trial also means a person who does not have
31 sufficient present ability to consult with the person's lawyer with a
32 reasonable degree of rational understanding or who does not have a rational
33 and factual understanding of the proceedings against the person. The
34 presence of a mental illness, defect or disability alone is not grounds for
35 finding a defendant incompetent to stand trial.

36 3. "Mental health expert" means a physician who is licensed pursuant
37 to title 32, chapter 13 or 17 or a psychologist who is licensed pursuant to
38 title 32, chapter 19.1 and who is:

39 (a) Familiar with this state's competency standards and statutes.

40 (b) Familiar with the treatment, training and restoration programs
41 that are available in this state.

42 (c) Certified by the court as meeting court developed guidelines using
43 recognized programs or standards.

44 4. "Mental illness, defect or disability" means a psychiatric or
45 neurological disorder that is evidenced by behavioral or emotional symptoms,

1 including congenital mental conditions, conditions resulting from injury or
2 disease and developmental disabilities as defined in section 36-551.

3 5. "Threat to public safety" means charged with the commission of any
4 of the following:

5 (a) A crime involving the discharge, use or threatening exhibition of
6 a deadly weapon or dangerous instrument or the infliction of physical injury
7 on another person.

8 (b) A dangerous crime against children pursuant to section 13-705.

9 (c) Two or more nondangerous felonies within a period of twenty-four
10 months.

11 Sec. 7. Section 15-761, Arizona Revised Statutes, is amended to read:
12 15-761. Definitions

13 In this article, unless the context otherwise requires:

14 1. "Autism" means a developmental disability that significantly
15 affects verbal and nonverbal communication and social interaction and that
16 adversely affects educational performance. Characteristics include
17 irregularities and impairments in communication, engagement in repetitive
18 activities and stereotyped movements, resistance to environmental change or
19 change in daily routines and unusual responses to sensory experiences.
20 Autism does not include children with characteristics of emotional disability
21 as defined in this section.

22 2. "Child with a disability":

23 (a) Means a child who is at least three years but less than twenty-two
24 years of age, who has been evaluated pursuant to section 15-766 and found to
25 have at least one of the following disabilities and who, because of the
26 disability, needs special education and related services:

27 (i) Autism.

28 (ii) Developmental delay.

29 (iii) Emotional disability.

30 (iv) Hearing impairment.

31 (v) Other health impairments.

32 (vi) Specific learning disability.

33 (vii) Mild, moderate or severe ~~mental-retardation~~ INTELLECTUAL
34 DISABILITY.

35 (viii) Multiple disabilities.

36 (ix) Multiple disabilities with severe sensory impairment.

37 (x) Orthopedic impairment.

38 (xi) Preschool severe delay.

39 (xii) Speech/language impairment.

40 (xiii) Traumatic brain injury.

41 (xiv) Visual impairment.

42 (b) Does not include a child if the determinant factor for the
43 classification is one or more of the following:

44 (i) A lack of appropriate instruction in reading, including essential
45 components of reading instruction.

- 1 (ii) A lack of appropriate instruction in mathematics.
- 2 (iii) Difficulty in writing, speaking or understanding the English
- 3 language due to an environmental background in which a language other than
- 4 English is primarily or exclusively used.

5 3. "Developmental delay" means performance by a child who is at least
6 three years of age but under ten years of age on a norm-referenced test that
7 measures at least one and one-half, but not more than three, standard
8 deviations below the mean for children of the same chronological age in two
9 or more of the following areas:

- 10 (a) Cognitive development.
- 11 (b) Physical development.
- 12 (c) Communication development.
- 13 (d) Social or emotional development.
- 14 (e) Adaptive development.

15 The results of the norm-referenced measure must be corroborated by
16 information from a comprehensive development assessment and from parental
17 input, if available, as measured by a judgment based assessment or survey.
18 If there is a discrepancy between the measures, the evaluation team shall
19 determine eligibility based on a preponderance of the information presented.

20 4. "Due process hearing" means a fair and impartial administrative
21 hearing conducted by the state educational agency by an impartial
22 administrative law judge in accordance with federal and state law.

23 5. "Educational disadvantage" means a condition ~~which~~ THAT has limited
24 a child's opportunity for educational experience resulting in a child
25 achieving less than a normal level of learning development.

26 6. "Eligibility for special education" means the pupil must have one
27 of the disabilities contained in paragraph 2 of this section and must also
28 require special education services in order to benefit from an educational
29 program.

30 7. "Emotional disability":

31 (a) Means a condition whereby a child exhibits one or more of the
32 following characteristics over a long period of time and to a marked degree
33 that adversely affects the child's performance in the educational
34 environment:

35 (i) An inability to learn ~~which~~ THAT cannot be explained by
36 intellectual, sensory or health factors.

37 (ii) An inability to build or maintain satisfactory interpersonal
38 relationships with peers and teachers.

39 (iii) Inappropriate types of behavior or feelings under normal
40 circumstances.

41 (iv) A general pervasive mood of unhappiness or depression.

42 (v) A tendency to develop physical symptoms or fears associated with
43 personal or school problems.

44 (b) Includes children who are schizophrenic but does not include
45 children who are socially maladjusted unless they are also determined to have

1 an emotional disability as determined by evaluation as provided in section
2 15-766.

3 8. "Hearing impairment" means a loss of hearing acuity, as determined
4 by evaluation pursuant to section 15-766, ~~which~~ THAT interferes with the
5 child's performance in the educational environment and requires the provision
6 of special education and related services.

7 9. "Home school district" means the school district in which the
8 person resides who has legal custody of the child, as provided in section
9 15-824, subsection B. If the child is a ward of the state and a specific
10 person does not have legal custody of the child, the home school district is
11 the district that the child last attended or, if the child has not previously
12 attended a public school in this state, the school district within which the
13 child currently resides.

14 10. "Impartial administrative law judge" means an administrative law
15 judge of the office of administrative hearings who is knowledgeable in the
16 laws governing special education and administrative hearings.

17 11. "Individualized education program" means a written statement, as
18 defined in 20 United States Code sections 1401 and 1412, for providing
19 special education and related services to a child with a disability.

20 12. "Individualized education program team" means a team whose task is
21 to develop an appropriate educational program for the child and has the same
22 meaning prescribed in 20 United States Code section 1414.

23 13. "~~Mental retardation~~ INTELLECTUAL DISABILITY" means a significant
24 impairment of general intellectual functioning that exists concurrently with
25 deficits in adaptive behavior and that adversely affects the child's
26 performance in the educational environment.

27 14. "Mild ~~mental retardation~~ INTELLECTUAL DISABILITY" means performance
28 on standard measures of intellectual and adaptive behavior between two and
29 three standard deviations below the mean for children of the same age.

30 15. "Moderate ~~mental retardation~~ INTELLECTUAL DISABILITY" means
31 performance on standard measures of intellectual and adaptive behavior
32 between three and four standard deviations below the mean for children of the
33 same age.

34 16. "Multidisciplinary evaluation team" means a team of persons
35 including individuals described as the individualized education program team
36 and other qualified professionals who shall determine whether a child is
37 eligible for special education.

38 17. "Multiple disabilities" means learning and developmental problems
39 resulting from multiple disabilities as determined by evaluation pursuant to
40 section 15-766 that cannot be provided for adequately in a program designed
41 to meet the needs of children with less complex disabilities. Multiple
42 disabilities include any of the following conditions that require the
43 provision of special education and related services:

44 (a) Two or more of the following conditions:

45 (i) Hearing impairment.

1 (ii) Orthopedic impairment.

2 (iii) Moderate ~~mental retardation~~ INTELLECTUAL DISABILITY.

3 (iv) Visual impairment.

4 (b) A child with a disability listed in subdivision (a) of this
5 paragraph existing concurrently with a condition of mild ~~mental retardation~~
6 INTELLECTUAL DISABILITY, emotional disability or specific learning
7 disability.

8 18. "Multiple disabilities with severe sensory impairment" means
9 multiple disabilities that include at least one of the following:

10 (a) Severe visual impairment or severe hearing impairment in
11 combination with another severe disability.

12 (b) Severe visual impairment and severe hearing impairment.

13 19. "Orthopedic impairment" means one or more severe orthopedic
14 impairments and includes those that are caused by congenital anomaly, disease
15 and other causes, such as amputation or cerebral palsy, and that adversely
16 affect a child's performance in the educational environment.

17 20. "Other health impairments" means limited strength, vitality or
18 alertness, including a heightened alertness to environmental stimuli, due to
19 chronic or acute health problems ~~which~~ THAT adversely affect a pupil's
20 educational performance.

21 21. "Out-of-home care" means the placement of a child with a disability
22 outside of the home environment and includes twenty-four hour residential
23 care, group care or foster care on either a full-time or part-time basis.

24 22. "Parent" means:

25 (a) Either a natural or adoptive parent of a child.

26 (b) A guardian, but not this state if the child is a ward of this
27 state.

28 (c) A person acting in the place of a natural or adoptive parent with
29 whom the child lives or a person who is legally responsible for the child's
30 welfare.

31 (d) A surrogate parent.

32 (e) A foster parent to the extent permitted by state law.

33 23. "Preschool child" means a child who is at least three years of age
34 but who has not reached the required age for kindergarten, subject to section
35 15-771, subsection G.

36 24. "Preschool severe delay" means performance by a preschool child on
37 a norm-referenced test that measures more than three standard deviations
38 below the mean for children of the same chronological age in one or more of
39 the following areas:

40 (a) Cognitive development.

41 (b) Physical development.

42 (c) Communication development.

43 (d) Social or emotional development.

44 (e) Adaptive development.

1 The results of the norm-referenced measure must be corroborated by
2 information from a comprehensive developmental assessment and from parental
3 input, if available, as measured by a judgment based assessment or survey.
4 If there is a discrepancy between the measures, the evaluation team shall
5 determine eligibility based on a preponderance of the information presented.

6 25. "Prior written notice" means written prior notice that a public
7 educational agency is required to send to parents whenever the public
8 educational agency proposes or refuses to initiate or change the
9 identification, evaluation or educational placement of a child with a
10 disability or the provision of a free appropriate public education.

11 26. "Public educational agency" means a school district, a charter
12 school, an accommodation school, a state supported institution or any other
13 political subdivision of this state that is responsible for providing
14 education to children with disabilities.

15 27. "Related services" means those supportive services, as defined in
16 20 United States Code section 1401, that are required to assist a child with
17 a disability who is eligible to receive special education services in order
18 for the child to benefit from special education.

19 28. "Residential special education placement" means the placement of a
20 child with a disability in a public or private residential program, as
21 provided in section 15-765, subsection G, in order to provide necessary
22 special education and related services as specified in the child's
23 individualized education program.

24 29. "Severe ~~mental-retardation~~ INTELLECTUAL DISABILITY" means
25 performance on standard measures of intellectual and adaptive behavior
26 measures at least four standard deviations below the mean for children of the
27 same age.

28 30. "Special education" means specially designed instruction that meets
29 the unique needs of a child with a disability and that is provided without
30 cost to the parents of the child.

31 31. "Special education referral" means a written request for an
32 evaluation to determine whether a pupil is eligible for special education
33 services that, for referrals not initiated by a parent, includes
34 documentation of appropriate efforts to educate the pupil in the regular
35 education program.

36 32. "Specially designed instruction" means adapting the content,
37 methodology or delivery of instruction to address the unique needs of a child
38 with a disability and to ensure that child's access to the general curriculum
39 as identified in the academic standards adopted by the state board of
40 education.

41 33. "Specific learning disability" has the same meaning as defined in
42 20 United States Code section 1401.

43 34. "Speech/language impairment":

44 (a) For a preschool child, means performance on a norm-referenced
45 language test that measures at least one and one-half standard deviations

1 below the mean for children of the same chronological age or whose speech,
2 out of context, is unintelligible to a listener who is unfamiliar with the
3 child. Eligibility for a preschool child under this subdivision is
4 appropriate only when a comprehensive developmental assessment and parental
5 input indicate that the preschool child is not eligible for services under
6 another preschool category or under the developmental delay category.

7 (b) For a child who has reached the required age for kindergarten,
8 means a speech or language impairment as defined in 34 Code of Federal
9 Regulations section 300.8.

10 35. "State educational agency" means the Arizona department of
11 education.

12 36. "State placing agency" has the same meaning prescribed in section
13 15-1181.

14 37. "Surrogate parent" means a person who has been appointed by the
15 court or by the department of education pursuant to section 15-763.01 in
16 order to represent a child in decisions regarding special education.

17 38. "Traumatic brain injury":

18 (a) Means an acquired injury to the brain that is caused by an
19 external physical force and that results in total or partial functional
20 disability or psychosocial impairment, or both, that adversely affects
21 educational performance.

22 (b) Applies to open or closed head injuries resulting in mild,
23 moderate or severe impairments in one or more areas, including cognition,
24 language, memory, attention, reasoning, abstract thinking, judgment, problem
25 solving, sensory, perceptual and motor abilities, psychosocial behavior,
26 physical functions, information processing and speech.

27 (c) Does not include brain injuries that are congenital or
28 degenerative or brain injuries induced by birth trauma.

29 39. "Visual impairment" has the same meaning prescribed in 34 Code of
30 Federal Regulations section 300.8.

31 40. "Ward of the state" has the same meaning prescribed in 20 United
32 States Code section 1401.

33 Sec. 8. Section 15-901, Arizona Revised Statutes, as amended by Laws
34 2010, seventh special session, chapter 8, section 2 and Laws 2010, second
35 regular session, chapter 220, section 2, chapter 306, section 6 and chapter
36 332, section 15, is amended to read:

37 15-901. Definitions

38 A. In this title, unless the context otherwise requires:

39 ~~1. "Average daily attendance" or "ADA" means actual average daily~~
40 ~~attendance through the first one hundred days or two hundred days in session,~~
41 ~~as applicable.~~

42 ~~2.~~ 1. "Average daily membership" means the total enrollment of
43 fractional students and full-time students, minus withdrawals, ~~of each school~~
44 ~~day through the first one hundred days or two hundred days in session, as~~
45 ~~applicable, for the current year~~ WHO ARE ENROLLED ON SEPTEMBER 15, NOVEMBER

1 15, JANUARY 15 AND MARCH 15, DIVIDED BY FOUR. Withdrawals include students
2 formally withdrawn from schools and students absent for ten consecutive
3 school days, except for excused absences ~~as~~ identified by the department of
4 education. FOR THE PURPOSES OF THIS SECTION, SCHOOL DISTRICTS AND CHARTER
5 SCHOOLS SHALL REPORT STUDENT ABSENCE DATA TO THE DEPARTMENT OF EDUCATION AT
6 LEAST ONCE EVERY SIXTY DAYS IN SESSION. For computation purposes, the
7 effective date of withdrawal shall be retroactive to the last day of actual
8 attendance of the student OR EXCUSED ABSENCE.

9 (a) "Fractional student" means:

10 (i) For common schools, ~~until fiscal year 2001-2002,~~ a preschool child
11 who is enrolled in a program for preschool children with disabilities of at
12 least three hundred sixty minutes each week or a kindergarten student at
13 least five years of age ~~prior to~~ BEFORE January 1 of the school year and
14 enrolled in a school kindergarten program that meets at least ~~three hundred~~
15 ~~forty-six instructional hours during the minimum number of days required in a~~
16 ~~school year as provided in section 15-341. In fiscal year 2001-2002, the~~
17 ~~kindergarten program shall meet at least three hundred forty-eight hours. In~~
18 ~~fiscal year 2002-2003, the kindergarten program shall meet at least three~~
19 ~~hundred fifty hours. In fiscal year 2003-2004, the kindergarten program~~
20 ~~shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005,~~
21 ~~the kindergarten program shall meet at least three hundred fifty-four hours.~~
22 ~~In fiscal year 2005-2006 and each fiscal year thereafter, the kindergarten~~
23 ~~program shall meet at least~~ three hundred fifty-six hours FOR A ONE HUNDRED
24 EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS
25 SECTION. Lunch periods and recess periods may not be included as part of the
26 instructional hours unless the child's individualized education program
27 requires instruction during those periods and the specific reasons for such
28 instruction are fully documented. In computing the average daily membership,
29 preschool children with disabilities and kindergarten students shall be
30 counted as one-half of a full-time student. For common schools, a part-time
31 student is a student enrolled for less than the total time for a full-time
32 student as defined in this section. A part-time common school student shall
33 be counted as one-fourth, one-half or three-fourths of a full-time student if
34 the student is enrolled in an instructional program that is at least
35 one-fourth, one-half or three-fourths of the time a full-time student is
36 enrolled as defined in subdivision (b) of this paragraph.

37 (ii) For high schools, a part-time student who is enrolled in less
38 than four subjects that count toward graduation as defined by the state board
39 of education in a recognized high school. ~~and who is taught in less than~~
40 ~~twenty instructional hours per week prorated for any week with fewer than~~
41 ~~five school days. A part-time high school student shall be counted as~~
42 ~~one-fourth, one-half or three-fourths of a full-time student if the student~~
43 ~~is enrolled in an instructional program that is at least one-fourth, one-half~~
44 ~~or three-fourths of a full-time instructional program as defined in~~
45 ~~subdivision (c) of this paragraph. THE AVERAGE DAILY MEMBERSHIP OF A~~

1 PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.75 IF THE STUDENT IS ENROLLED IN AN
2 INSTRUCTIONAL PROGRAM OF THREE SUBJECTS THAT MEET AT LEAST FIVE HUNDRED
3 EIGHTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL
4 HOURS PRESCRIBED IN THIS SECTION. THE AVERAGE DAILY MEMBERSHIP OF A
5 PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.5 IF THE STUDENT IS ENROLLED IN AN
6 INSTRUCTIONAL PROGRAM OF TWO SUBJECTS THAT MEET AT LEAST THREE HUNDRED SIXTY
7 HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS
8 PRESCRIBED IN THIS SECTION. THE AVERAGE DAILY MEMBERSHIP OF A PART-TIME HIGH
9 SCHOOL STUDENT SHALL BE 0.25 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL
10 PROGRAM OF ONE SUBJECT THAT MEETS AT LEAST ONE HUNDRED EIGHTY HOURS FOR A ONE
11 HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS
12 SECTION.

13 (b) "Full-time student" means:

14 (i) For common schools, a student who is at least six years of age
15 ~~prior to~~ BEFORE January 1 of a school year, who has not graduated from the
16 highest grade taught in the school district and who is regularly enrolled in
17 a course of study required by the state board of education. ~~Until fiscal~~
18 ~~year 2001-2002,~~ First, second and third grade students, ungraded students at
19 least six, but under nine, years of age by September 1 or ungraded group B
20 children with disabilities who are at least five, but under six, years of age
21 by September 1 must be enrolled in an instructional program that meets for a
22 total of at least ~~six hundred ninety-two hours during the minimum number of~~
23 ~~days required in a school year as provided in section 15-341. In fiscal year~~
24 ~~2001-2002, the program shall meet at least six hundred ninety-six hours. In~~
25 ~~fiscal year 2002-2003, the program shall meet at least seven hundred hours.~~
26 ~~In fiscal year 2003-2004, the program shall meet at least seven hundred four~~
27 ~~hours. In fiscal year 2004-2005, the program shall meet at least seven~~
28 ~~hundred eight hours. In fiscal year 2005-2006 and in each fiscal year~~
29 ~~thereafter, the program shall meet at least seven hundred twelve hours.~~
30 ~~Until fiscal year 2001-2002,~~ SEVEN HUNDRED TWELVE HOURS FOR A ONE HUNDRED
31 EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS
32 SECTION. Fourth, fifth and sixth grade students or ungraded students at
33 least nine, but under twelve, years of age by September 1 must be enrolled in
34 an instructional program that meets for a total of at ~~least eight hundred~~
35 ~~sixty-five hours during the minimum number of school days required in a~~
36 ~~school year as provided in section 15-341. In fiscal year 2001-2002, the~~
37 ~~program shall meet at least eight hundred seventy hours. In fiscal year~~
38 ~~2002-2003, the program shall meet at least eight hundred seventy-five hours.~~
39 ~~In fiscal year 2003-2004, the program shall meet at least eight hundred~~
40 ~~eighty hours. In fiscal year 2004-2005, the program shall meet at least~~
41 ~~eight hundred eighty-five hours. In fiscal year 2005-2006 and each fiscal~~
42 ~~year thereafter, the program shall meet at least eight hundred ninety hours.~~
43 ~~Until fiscal year 2001-2002,~~ LEAST EIGHT HUNDRED NINETY HOURS FOR A ONE
44 HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS
45 SECTION. Seventh and eighth grade students or ungraded students at least

1 twelve, but under fourteen, years of age by September 1 must be enrolled in
2 an instructional program that meets for ~~a total of at least one thousand~~
3 ~~thirty eight hours during the minimum number of days required in a school~~
4 ~~year as provided in section 15-341. In fiscal year 2001-2002, the program~~
5 ~~shall meet at least one thousand forty four hours. In fiscal year 2002-2003,~~
6 ~~the program shall meet at least one thousand fifty hours. In fiscal year~~
7 ~~2003-2004, the program shall meet at least one thousand fifty six hours. In~~
8 ~~fiscal year 2004-2005, the program shall meet at least one thousand sixty two~~
9 ~~hours. In fiscal years 2005-2006 through 2009-2010, the program shall meet~~
10 ~~at least one thousand sixty eight hours. In fiscal year 2010-2011 and each~~
11 ~~fiscal year thereafter, the program shall meet~~ at least one thousand hours.
12 Lunch periods and recess periods may not be included as part of the
13 instructional hours unless the student is a child with a disability and the
14 child's individualized education program requires instruction during those
15 periods and the specific reasons for such instruction are fully documented.

16 (ii) For high schools, except as provided in section 15-105, a student
17 not graduated from the highest grade taught in the school district, or an
18 ungraded student at least fourteen years of age by September 1, and enrolled
19 in at least ~~a full-time~~ AN instructional program of **FOUR OR MORE** subjects
20 that count toward graduation as defined by the state board of education, **THAT**
21 **MEETS FOR A TOTAL OF AT LEAST SEVEN HUNDRED TWENTY HOURS FOR A ONE HUNDRED**
22 **EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION**
23 in a recognized high school. A full-time student shall not be counted more
24 than once for computation of average daily membership. **THE AVERAGE DAILY**
25 **MEMBERSHIP OF A FULL-TIME HIGH SCHOOL STUDENT SHALL BE 1.0 IF THE STUDENT IS**
26 **ENROLLED IN AT LEAST FOUR SUBJECTS THAT MEET AT LEAST SEVEN HUNDRED TWENTY**
27 **HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE EQUIVALENT**
28 **INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION.**

29 (iii) Except as otherwise provided by law, for a full-time high school
30 student who is concurrently enrolled in two school districts or two charter
31 schools, the average daily membership shall not exceed 1.0.

32 (iv) Except as otherwise provided by law, for any student who is
33 concurrently enrolled in a school district and a charter school, the average
34 daily membership shall be apportioned between the school district and the
35 charter school and shall not exceed 1.0. The apportionment shall be based on
36 the percentage of total time that the student is enrolled in or in attendance
37 at the school district and the charter school.

38 (v) Except as otherwise provided by law, for any student who is
39 concurrently enrolled, pursuant to section 15-808, in a school district and
40 Arizona online instruction or a charter school and Arizona online
41 instruction, the average daily membership shall be apportioned between the
42 school district and Arizona online instruction or the charter school and
43 Arizona online instruction and shall not exceed 1.0. The apportionment shall
44 be based on the percentage of total time that the student is enrolled in or

1 in attendance at the school district and Arizona online instruction or the
2 charter school and Arizona online instruction.

3 (vi) For homebound or hospitalized, a student receiving at least four
4 hours of instruction per week.

5 ~~(c) "Full-time instructional program" means:~~

6 ~~(i) Through fiscal year 2000-2001, at least four subjects, each of~~
7 ~~which, if taught each school day for the minimum number of days required in a~~
8 ~~school year, would meet a minimum of one hundred twenty hours a year, or the~~
9 ~~equivalent, or one or more subjects taught in amounts of time totaling at~~
10 ~~least twenty hours per week prorated for any week with fewer than five school~~
11 ~~days.~~

12 ~~(ii) For fiscal year 2001-2002, an instructional program that meets at~~
13 ~~least a total of seven hundred four hours during the minimum number of days~~
14 ~~required and includes at least four subjects each of which, if taught each~~
15 ~~school day for the minimum number of days required in a school year, would~~
16 ~~meet a minimum of one hundred twenty-two hours a year, or the equivalent, or~~
17 ~~one or more subjects taught in amounts of time totaling at least twenty hours~~
18 ~~per week prorated for any week with fewer than five school days.~~

19 ~~(iii) For fiscal year 2002-2003, an instructional program that meets~~
20 ~~at least a total of seven hundred eight hours during the minimum number of~~
21 ~~days required and includes at least four subjects each of which, if taught~~
22 ~~each school day for the minimum number of days required in a school year,~~
23 ~~would meet a minimum of one hundred twenty-two hours a year, or the~~
24 ~~equivalent, or one or more subjects taught in amounts of time totaling at~~
25 ~~least twenty hours per week prorated for any week with fewer than five school~~
26 ~~days.~~

27 ~~(iv) For fiscal year 2003-2004, an instructional program that meets at~~
28 ~~least a total of seven hundred twelve hours during the minimum number of days~~
29 ~~required and includes at least four subjects each of which, if taught each~~
30 ~~school day for the minimum number of days required in a school year, would~~
31 ~~meet a minimum of one hundred twenty-three hours a year, or the equivalent,~~
32 ~~or one or more subjects taught in amounts of time totaling at least twenty~~
33 ~~hours per week prorated for any week with fewer than five school days.~~

34 ~~(v) For fiscal year 2004-2005, an instructional program that meets at~~
35 ~~least a total of seven hundred sixteen hours during the minimum number of~~
36 ~~days required and includes at least four subjects each of which, if taught~~
37 ~~each school day for the minimum number of days required in a school year,~~
38 ~~would meet a minimum of one hundred twenty-three hours a year, or the~~
39 ~~equivalent, or one or more subjects taught in amounts of time totaling at~~
40 ~~least twenty hours per week prorated for any week with fewer than five school~~
41 ~~days.~~

42 ~~(vi) For fiscal year 2005-2006 and each fiscal year thereafter, an~~
43 ~~instructional program that meets at least a total of seven hundred twenty~~
44 ~~hours during the minimum number of days required and includes at least four~~
45 ~~subjects each of which, if taught each school day for the minimum number of~~

~~1 days required in a school year, would meet a minimum of one hundred
2 twenty three hours a year, or the equivalent, or one or more subjects taught
3 in amounts of time totaling at least twenty hours per week prorated for any
4 week with fewer than five school days.~~

5 ~~3.~~ 2. "Budget year" means the fiscal year for which the school
6 district is budgeting and ~~which~~ THAT immediately follows the current year.

7 ~~4.~~ 3. "Common school district" means a political subdivision of this
8 state offering instruction to students in programs for preschool children
9 with disabilities and kindergarten programs and either:

10 (a) Grades one through eight.

11 (b) Grades one through nine pursuant to section 15-447.01.

12 ~~5.~~ 4. "Current year" means the fiscal year in which a school district
13 is operating.

14 ~~6.~~ 5. "Daily attendance" means:

15 (a) For common schools, days in which a pupil:

16 (i) Of a kindergarten program or ungraded, but not group B children
17 with disabilities, and at least five, but under six, years of age by
18 September 1 attends at least three-quarters of the instructional time
19 scheduled for the day. If the total instruction time scheduled for the year
20 is at least three hundred forty-six hours but is less than six hundred
21 ninety-two hours such attendance shall be counted as one-half day of
22 attendance. If the instructional time scheduled for the year is at least six
23 hundred ninety-two hours, "daily attendance" means days in which a pupil
24 attends at least one-half of the instructional time scheduled for the day.
25 Such attendance shall be counted as one-half day of attendance.

26 (ii) Of the first, second or third grades, ungraded and at least six,
27 but under nine, years of age by September 1 or ungraded group B children with
28 disabilities and at least five, but under six, years of age by September 1
29 attends more than three-quarters of the instructional time scheduled for the
30 day.

31 (iii) Of the fourth, fifth or sixth grades or ungraded and at least
32 nine, but under twelve, years of age by September 1 attends more than
33 three-quarters of the instructional time scheduled for the day, except as
34 provided in section 15-797.

35 (iv) Of the seventh or eighth grades or ungraded and at least twelve,
36 but under fourteen, years of age by September 1 attends more than
37 three-quarters of the instructional time scheduled for the day, except as
38 provided in section 15-797.

39 (b) For common schools, the attendance of a pupil at three-quarters or
40 less of the instructional time scheduled for the day shall be counted as
41 follows, except as provided in section 15-797 and except that attendance for
42 a fractional student shall not exceed the pupil's fractional membership:

43 (i) If attendance for all pupils in the school is based on quarter
44 days, the attendance of a pupil shall be counted as one-fourth of a day's
45 attendance for each one-fourth of full-time instructional time attended.

1 (ii) If attendance for all pupils in the school is based on half days,
2 the attendance of at least three-quarters of the instructional time scheduled
3 for the day shall be counted as a full day's attendance and attendance at a
4 minimum of one-half but less than three-quarters of the instructional time
5 scheduled for the day equals one-half day of attendance.

6 (c) For common schools, the attendance of a preschool child with
7 disabilities shall be counted as one-fourth day's attendance for each
8 thirty-six minutes of attendance not including lunch periods and recess
9 periods, except as provided in paragraph ~~2~~ 1, subdivision (a), item (i) of
10 this subsection for children with disabilities up to a maximum of three
11 hundred sixty minutes each week.

12 (d) For high schools or ungraded schools in which the pupil is at
13 least fourteen years of age by September 1, the attendance of a pupil shall
14 not be counted as a full day unless the pupil is actually and physically in
15 attendance and enrolled in and carrying four subjects, each of which, if
16 taught each school day for the minimum number of days required in a school
17 year, would meet a minimum of one hundred twenty hours a year, or the
18 equivalent, that count toward graduation in a recognized high school except
19 as provided in section 15-797 and subdivision (e) of this paragraph.
20 Attendance of a pupil carrying less than the load prescribed shall be
21 prorated.

22 (e) For high schools or ungraded schools in which the pupil is at
23 least fourteen years of age by September 1, the attendance of a pupil may be
24 counted as one-fourth of a day's attendance for each sixty minutes of
25 instructional time in a subject that counts toward graduation, except that
26 attendance for a pupil shall not exceed the pupil's full or fractional
27 membership.

28 (f) For homebound or hospitalized, a full day of attendance may be
29 counted for each day during a week in which the student receives at least
30 four hours of instruction.

31 (g) For school districts ~~which~~ THAT maintain school for an approved
32 year-round school year operation, attendance shall be based on a computation,
33 as prescribed by the superintendent of public instruction, of the one hundred
34 eighty days' equivalency or two hundred days' equivalency, as applicable, of
35 instructional time as approved by the superintendent of public instruction
36 during which each pupil is enrolled.

37 ~~7.~~ 6. "Daily route mileage" means the sum of:

38 (a) The total number of miles driven daily by all buses of a school
39 district while transporting eligible students from their residence to the
40 school of attendance and from the school of attendance to their residence on
41 scheduled routes approved by the superintendent of public instruction.

42 (b) The total number of miles driven daily on routes approved by the
43 superintendent of public instruction for which a private party, a political
44 subdivision or a common or a contract carrier is reimbursed for bringing an
45 eligible student from the place of his residence to a school transportation

1 pickup point or to the school of attendance and from the school
2 transportation scheduled return point or from the school of attendance to his
3 residence. Daily route mileage includes the total number of miles necessary
4 to drive to transport eligible students from and to their residence as
5 provided in this paragraph.

6 ~~8-~~ 7. "District support level" means the base support level plus the
7 transportation support level.

8 ~~9-~~ 8. "Eligible students" means:

9 (a) Students who are transported by or for a school district and who
10 qualify as full-time students or fractional students, except students for
11 whom transportation is paid by another school district or a county school
12 superintendent, and:

13 (i) For common school students, whose place of actual residence within
14 the school district is more than one mile from the school facility of
15 attendance or students who are admitted pursuant to section 15-816.01 and who
16 meet the economic eligibility requirements established under the national
17 school lunch and child nutrition acts (42 United States Code sections 1751
18 through 1785) for free or reduced price lunches and whose actual place of
19 residence outside the school district boundaries is more than one mile from
20 the school facility of attendance.

21 (ii) For high school students, whose place of actual residence within
22 the school district is more than one and one-half miles from the school
23 facility of attendance or students who are admitted pursuant to section
24 15-816.01 and who meet the economic eligibility requirements established
25 under the national school lunch and child nutrition acts (42 United States
26 Code sections 1751 through 1785) for free or reduced price lunches and whose
27 actual place of residence outside the school district boundaries is more than
28 one and one-half miles from the school facility of attendance.

29 (b) Kindergarten students, for purposes of computing the number of
30 eligible students under subdivision (a), item (i) of this paragraph, shall be
31 counted as full-time students, notwithstanding any other provision of law.

32 (c) Children with disabilities, as defined by section 15-761, who are
33 transported by or for the school district or who are admitted pursuant to
34 chapter 8, article 1.1 of this title and who qualify as full-time students or
35 fractional students regardless of location or residence within the school
36 district or children with disabilities whose transportation is required by
37 the pupil's individualized education program.

38 (d) Students whose residence is outside the school district and who
39 are transported within the school district on the same basis as students who
40 reside in the school district.

41 ~~10-~~ 9. "Enrolled" or "enrollment" means when a pupil is currently
42 registered in the school district.

43 ~~11-~~ 10. "GDP price deflator" means the average of the four implicit
44 price deflators for the gross domestic product reported by the United States
45 department of commerce for the four quarters of the calendar year.

1 ~~12.~~ 11. "High school district" means a political subdivision of this
2 state offering instruction to students for grades nine through twelve or that
3 portion of the budget of a common school district ~~which~~ THAT is allocated to
4 teaching high school subjects with permission of the state board of
5 education.

6 ~~13.~~ 12. "Revenue control limit" means the base revenue control limit
7 plus the transportation revenue control limit.

8 ~~14.~~ 13. "Student count" means average daily membership as prescribed
9 in this subsection for the fiscal year ~~prior to~~ BEFORE the current year,
10 except that for the purpose of budget preparation student count means average
11 daily membership as prescribed in this subsection for the current year.

12 ~~15.~~ 14. "Submit electronically" means submitted in a format and in a
13 manner prescribed by the department of education.

14 ~~16.~~ 15. "Total bus mileage" means the total number of miles driven by
15 all buses of a school district during the school year.

16 ~~17.~~ 16. "Total students transported" means all eligible students
17 transported from their place of residence to a school transportation pickup
18 point or to the school of attendance and from the school of attendance or
19 from the school transportation scheduled return point to their place of
20 residence.

21 ~~18.~~ 17. "Unified school district" means a political subdivision of the
22 state offering instruction to students in programs for preschool children
23 with disabilities and kindergarten programs and grades one through twelve.

24 B. In this title, unless the context otherwise requires:

25 1. "Base" means the revenue level per student count specified by the
26 legislature.

27 2. "Base level" means the following amounts plus the percentage
28 increases to the base level as provided in sections 15-902.02, 15-918.04,
29 15-919.04 and 15-952, except that if a school district or charter school is
30 eligible for an increase in the base level as provided in two or more of
31 these sections, the base level amount shall be calculated by compounding
32 rather than adding the sum of one plus the percentage of the increase from
33 those different sections:

34 (a) For fiscal year 2007-2008, three thousand two hundred twenty-six
35 dollars eighty-eight cents.

36 (b) For fiscal year 2008-2009, three thousand two hundred ninety-one
37 dollars forty-two cents.

38 (c) For fiscal years 2009-2010 and 2010-2011, three thousand two
39 hundred sixty-seven dollars seventy-two cents.

40 3. "Base revenue control limit" means the base revenue control limit
41 computed as provided in section 15-944.

42 4. "Base support level" means the base support level as provided in
43 section 15-943.

44 5. "Certified teacher" means a person who is certified as a teacher
45 pursuant to the rules adopted by the state board of education, who renders

1 direct and personal services to school children in the form of instruction
2 related to the school district's educational course of study and who is paid
3 from the maintenance and operation section of the budget.

4 6. "DD" means programs for children with developmental delays who are
5 at least three years of age but under ten years of age. A preschool child
6 who is categorized under this paragraph is not eligible to receive funding
7 pursuant to section 15-943, paragraph 2, subdivision (b).

8 7. "ED, ~~MIMR MIID~~, SLD, SLI and OHI" means programs for children with
9 emotional disabilities, mild ~~mental-retardation~~ INTELLECTUAL DISABILITIES, a
10 specific learning disability, a speech/language impairment and other health
11 impairments. A preschool child who is categorized as SLI under this
12 paragraph is not eligible to receive funding pursuant to section 15-943,
13 paragraph 2, subdivision (b).

14 8. "ED-P" means programs for children with emotional disabilities who
15 are enrolled in private special education programs as prescribed in section
16 15-765, subsection D, paragraph 1 or in an intensive school district program
17 as provided in section 15-765, subsection D, paragraph 2.

18 9. "ELL" means English learners who do not speak English or whose
19 native language is not English, who are not currently able to perform
20 ordinary classroom work in English and who are enrolled in an English
21 language education program pursuant to sections 15-751, 15-752 and 15-753.

22 10. "Full-time equivalent certified teacher" or "FTE certified teacher"
23 means for a certified teacher the following:

24 (a) If employed full time as defined in section 15-501, 1.00.

25 (b) If employed less than full time, multiply 1.00 by the percentage
26 of a full school day, or its equivalent, or a full class load, or its
27 equivalent, for which the teacher is employed as determined by the governing
28 board.

29 11. "Group A" means educational programs for career exploration, a
30 specific learning disability, an emotional disability, A mild ~~mental-~~
31 ~~retardation~~ INTELLECTUAL DISABILITY, remedial education, a speech/language
32 impairment, developmental delay, homebound, bilingual, other health
33 impairments and gifted pupils.

34 12. "Group B" means educational improvements for pupils in kindergarten
35 programs and grades one through three, educational programs for autism, a
36 hearing impairment, A moderate ~~mental-retardation~~ INTELLECTUAL DISABILITY,
37 multiple disabilities, multiple disabilities with severe sensory impairment,
38 orthopedic impairments, preschool severe delay, A severe ~~mental-retardation~~
39 INTELLECTUAL DISABILITY and emotional disabilities for school age pupils
40 enrolled in private special education programs or in school district programs
41 for children with severe disabilities or visual impairment and English
42 learners enrolled in a program to promote English language proficiency
43 pursuant to section 15-752.

44 13. "HI" means programs for pupils with hearing impairment.

1 14. "Homebound" or "hospitalized" means a pupil who is capable of
2 profiting from academic instruction but is unable to attend school due to
3 illness, disease, accident or other health conditions, who has been examined
4 by a competent medical doctor and who is certified by that doctor as being
5 unable to attend regular classes for a period of not less than three school
6 months or a pupil who is capable of profiting from academic instruction but
7 is unable to attend school regularly due to chronic or acute health problems,
8 who has been examined by a competent medical doctor and who is certified by
9 that doctor as being unable to attend regular classes for intermittent
10 periods of time totaling three school months during a school year. The
11 medical certification shall state the general medical condition, such as
12 illness, disease or chronic health condition, that is the reason that the
13 pupil is unable to attend school. Homebound or hospitalized includes a
14 student who is unable to attend school for a period of less than three months
15 due to a pregnancy if a competent medical doctor, after an examination,
16 certifies that the student is unable to attend regular classes due to risk to
17 the pregnancy or to the student's health.

18 15. "K-3" means kindergarten programs and grades one through three.

19 16. "MD-R, A-R and ~~SMR-R~~ SID-R" means resource programs for pupils with
20 multiple disabilities, autism and severe ~~mental-retardation~~ INTELLECTUAL
21 DISABILITY.

22 17. "MD-SC, A-SC and ~~SMR-SC~~ SID-SC" means self-contained programs for
23 pupils with multiple disabilities, autism and severe ~~mental-retardation~~
24 INTELLECTUAL DISABILITY.

25 18. "MD-SSI" means a program for pupils with multiple disabilities with
26 severe sensory impairment.

27 19. ~~"MOMR"~~ "MOID" means programs for pupils with moderate ~~mental-~~
28 ~~retardation~~ INTELLECTUAL DISABILITY.

29 20. "OI-R" means a resource program for pupils with orthopedic
30 impairments.

31 21. "OI-SC" means a self-contained program for pupils with orthopedic
32 impairments.

33 22. "PSD" means preschool programs for children with disabilities as
34 provided in section 15-771.

35 23. "P-SD" means programs for children who meet the definition of
36 preschool severe delay as provided in section 15-771.

37 24. "Qualifying tax rate" means the qualifying tax rate specified in
38 section 15-971 applied to the assessed valuation used for primary property
39 taxes.

40 25. "Small isolated school district" means a school district ~~which~~ THAT
41 meets all of the following:

42 (a) Has a student count of fewer than six hundred in kindergarten
43 programs and grades one through eight or grades nine through twelve.

44 (b) Contains no school ~~which~~ THAT is fewer than thirty miles by the
45 most reasonable route from another school, or, if road conditions and terrain

1 make the driving slow or hazardous, fifteen miles from another school ~~which~~
2 THAT teaches one or more of the same grades and is operated by another school
3 district in this state.

4 (c) Is designated as a small isolated school district by the
5 superintendent of public instruction.

6 26. "Small school district" means a school district ~~which~~ THAT meets
7 all of the following:

8 (a) Has a student count of fewer than six hundred in kindergarten
9 programs and grades one through eight or grades nine through twelve.

10 (b) Contains at least one school ~~which~~ THAT is fewer than thirty miles
11 by the most reasonable route from another school ~~which~~ THAT teaches one or
12 more of the same grades and is operated by another school district in this
13 state.

14 (c) Is designated as a small school district by the superintendent of
15 public instruction.

16 27. "Transportation revenue control limit" means the transportation
17 revenue control limit computed as prescribed in section 15-946.

18 28. "Transportation support level" means the support level for pupil
19 transportation operating expenses as provided in section 15-945.

20 29. "VI" means programs for pupils with visual impairments.

21 30. "Voc. Ed." means career and technical education and vocational
22 education programs, as defined in section 15-781.

23 Sec. 9. Repeal

24 Section 15-901, Arizona Revised Statutes, as amended by Laws 2010,
25 chapter 318, section 12, is repealed.

26 Sec. 10. Section 15-943, Arizona Revised Statutes, is amended to read:
27 15-943. Base support level

28 The base support level for each school district shall be computed as
29 follows:

30 1. The following support level weights shall be used in paragraph 2,
31 subdivision (a) of this section for the following school districts:

32 (a) For school districts whose student count in kindergarten programs
33 and grades one through eight is classified in column 1 of this subdivision,
34 the support level weight for kindergarten programs and grades one through
35 eight is the corresponding support level weight prescribed in column 2 or 3
36 of this subdivision, whichever is appropriate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
	Support Level Weight For Small Isolated School Districts	Support Level Weight For Small School Districts
1-99	1.559	1.399
100-499	1.358 + [0.0005 x (500 - student count)]	1.278 + [0.0003 x (500 - student count)]
500-599	1.158 + [0.002 x (600 - student count)]	1.158 + [0.0012 x (600 - student count)]

1 (b) For school districts whose student count in grades nine through
 2 twelve is classified in column 1 of this subdivision, the support level
 3 weight for grades nine through twelve is the corresponding support level
 4 weight prescribed in column 2 or 3 of this subdivision, whichever is
 5 appropriate:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
	Support Level Weight For Small Isolated School Districts	Support Level Weight For Small School Districts
<u>Student Count</u>	<u>School Districts</u>	<u>School Districts</u>
1-99	1.669	1.559
100-499	1.468 + [0.0005 x (500 - student count)]	1.398 + [0.0004 x (500 - student count)]
500-599	1.268 + [0.002 x (600 - student count)]	1.268 + [0.0013 x (600 - student count)]

15 2. Subject to paragraph 1 of this section, determine the weighted
 16 student count as follows:

17 (a)

<u>Grade Base</u>	<u>Group A</u>	<u>Support Level Weight</u>	<u>Student Count</u>	<u>Weighted Student Count</u>
PSD 1.000 + 0.450 = 1.450			x _____	= _____
K-8 1.000 + 0.158 = 1.158			x _____	= _____
9-12 1.163 + 0.105 = 1.268			x _____	= _____
			Subtotal	A _____

25 (b)

<u>Funding Category</u>	<u>Support Level Weight</u>	<u>Student Count</u>	<u>Weighted Student Count</u>
HI	4.771	x _____	= _____
K-3	0.060	x _____	= _____
ELL	0.115	x _____	= _____
MD-R, A-R and SMR-R SID-R	6.024	x _____	= _____
MD-SC, A-SC and SMR-SC SID-SC	5.833	x _____	= _____
MD-SSI	7.947	x _____	= _____
OI-R	3.158	x _____	= _____
OI-SC	6.773	x _____	= _____
P-SD	3.595	x _____	= _____
DD, ED, MIMR MIID, SLD,			
SLI and OHI	0.003	x _____	= _____
ED-P	4.822	x _____	= _____

1	MOMR MOID	4.421	x	_____	=	_____
2	VI	4.806	x	_____	=	_____
3		Subtotal			B	_____

4 (c) Total of subtotals A and B: _____

5 3. Multiply the total determined in paragraph 2 of this section by the
6 base level.

7 4. Multiply the teacher experience index of the district or 1.00,
8 whichever is greater, by the product obtained in paragraph 3 of this section.

9 5. Add the amount determined in section 15-910.04.

10 Sec. 11. Section 15-948, Arizona Revised Statutes, is amended to read:

11 15-948. Adjustment for growth in student count

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

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

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

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

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

28 B. A school district ~~may~~, after the first one hundred days or two
29 hundred days in session, as applicable, of the current year, MAY determine if
30 it is eligible to compute an increase to its revenue control limit for the
31 current year due to growth in the number of pupils in the group B categories
32 of moderate or severe ~~mental-retardation~~ INTELLECTUAL DISABILITY, visual
33 impairment, hearing impairment, multiple disabilities, multiple disabilities
34 with severe sensory impairment, orthopedic impairment, preschool severe delay
35 and emotionally disabled pupils enrolled in private special education
36 programs or in school district programs for pupils with severe disabilities
37 as follows:

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

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

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

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

7 C. If a school district meets the criteria specified in subsection A
8 or B of this section, or both, the governing board of the school district
9 ~~may~~, after notice is given and a public hearing held as provided in section
10 15-905, subsection D, at any time ~~prior to~~ BEFORE May 15 MAY revise its
11 budget to include the increase in its revenue control limit and district
12 support level for the current year utilizing the procedure prescribed in
13 subsection A or B of this section, or both. Not later than May 18, the
14 budget as revised shall be submitted electronically to the superintendent of
15 public instruction.

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

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

29 Sec. 12. Section 15-976, Arizona Revised Statutes, is amended to read:
30 15-976. Assistance for school districts for children whose
31 parents are employed by certain state institutions;
32 expenditure limitation

33 A. The superintendent of public instruction shall assist school
34 districts in educating children whose parents or legal guardians are employed
35 by and domiciled at the following state institutions and stations: the state
36 hospital, the Arizona state schools for the deaf and the blind, ~~mental~~
37 ~~retardation~~ INTELLECTUAL DISABILITY centers, port of entry inspection
38 stations and institutions and facilities maintained by the state department
39 of corrections. The school enrollment is deemed for the purpose of
40 determining student count to be enrollment in the school district of actual
41 attendance. The assistance shall be by payment of tuition as follows:

42 1. For group B children with disabilities, as provided in section
43 15-825, subsection D.

44 2. For children other than group B children with disabilities, the
45 costs per student count as prescribed in section 15-824, subsection G minus

1 the amount generated by the equalization base as determined in section
2 15-971, subsection A for those pupils, except that ~~in no case shall~~ the
3 tuition for any pupil SHALL NOT exceed an amount equal to seven thousand
4 dollars minus the amount generated by the equalization base as determined in
5 section 15-971, subsection A.

6 B. Claims for such payments shall be made by the school districts
7 through the county school superintendent to the superintendent of public
8 instruction.

9 C. The total amount of state monies that may be spent in any fiscal
10 year by the superintendent of public instruction pursuant to subsection A of
11 this section shall not exceed the amount appropriated or authorized by
12 section 35-173 for that purpose. This section shall not be construed to
13 impose a duty on an officer, agent or employee of this state to discharge a
14 responsibility or to create any right in a person or group if the discharge
15 or right would require an expenditure of state monies in excess of the
16 expenditure authorized by legislative appropriation for that specific
17 purpose.

18 Sec. 13. Section 20-826, Arizona Revised Statutes, is amended to read:
19 20-826. Subscription contracts; definitions

20 A. A contract between a corporation and its subscribers shall not be
21 issued unless the form of such contract is approved in writing by the
22 director.

23 B. Each contract shall plainly state the services to which the
24 subscriber is entitled and those to which the subscriber is not entitled
25 under the plan, and shall constitute a direct obligation of the providers of
26 services with which the corporation has contracted for hospital, medical,
27 dental or optometric services.

28 C. Each contract, except for dental services or optometric services,
29 shall be so written that the corporation shall pay benefits for each of the
30 following:

31 1. Performance of any surgical service that is covered by the terms of
32 such contract, regardless of the place of service.

33 2. Any home health services that are performed by a licensed home
34 health agency and that a physician has prescribed in lieu of hospital
35 services, as defined by the director, providing the hospital services would
36 have been covered.

37 3. Any diagnostic service that a physician has performed outside a
38 hospital in lieu of inpatient service, providing the inpatient service would
39 have been covered.

40 4. Any service performed in a hospital's outpatient department or in a
41 freestanding surgical facility, if such service would have been covered if
42 performed as an inpatient service.

43 D. Each contract for dental or optometric services shall be so written
44 that the corporation shall pay benefits for contracted dental or optometric
45 services provided by dentists or optometrists.

1 E. Any contract, except accidental death and dismemberment, applied
2 for that provides family coverage, as to such coverage of family members,
3 shall also provide that the benefits applicable for children shall be payable
4 with respect to a newly born child of the insured from the instant of such
5 child's birth, to a child adopted by the insured, regardless of the age at
6 which the child was adopted, and to a child who has been placed for adoption
7 with the insured and for whom the application and approval procedures for
8 adoption pursuant to section 8-105 or 8-108 have been completed to the same
9 extent that such coverage applies to other members of the family. The
10 coverage for newly born or adopted children or children placed for adoption
11 shall include coverage of injury or sickness, including necessary care and
12 treatment of medically diagnosed congenital defects and birth abnormalities.
13 If payment of a specific premium is required to provide coverage for a child,
14 the contract may require that notification of birth, adoption or adoption
15 placement of the child and payment of the required premium must be furnished
16 to the insurer within thirty-one days after the date of birth, adoption or
17 adoption placement in order to have the coverage continue beyond the
18 thirty-one day period.

19 F. Each contract that is delivered or issued for delivery in this
20 state after December 25, 1977 and that provides that coverage of a dependent
21 child shall terminate ~~upon~~ ON attainment of the limiting age for dependent
22 children specified in the contract shall also provide in substance that
23 attainment of such limiting age shall not operate to terminate the coverage
24 of such child while the child is and continues to be both incapable of
25 self-sustaining employment by reason of ~~mental-retardation~~ INTELLECTUAL
26 DISABILITY or physical handicap and chiefly dependent ~~upon~~ ON the subscriber
27 for support and maintenance. Proof of such incapacity and dependency shall
28 be furnished to the corporation by the subscriber within thirty-one days of
29 the child's attainment of the limiting age and subsequently as may be
30 required by the corporation, but not more frequently than annually after the
31 two-year period following the child's attainment of the limiting age.

32 G. No corporation may cancel or refuse to renew any subscriber's
33 contract without giving notice of such cancellation or nonrenewal to the
34 subscriber under such contract. A notice by the corporation to the
35 subscriber of cancellation or nonrenewal of a subscription contract shall be
36 mailed to the named subscriber at least forty-five days before the effective
37 date of such cancellation or nonrenewal. The notice shall include or be
38 accompanied by a statement in writing of the reasons for such action by the
39 corporation. Failure of the corporation to comply with this subsection shall
40 invalidate any cancellation or nonrenewal except a cancellation or nonrenewal
41 for nonpayment of premium.

42 H. A contract that provides coverage for surgical services for a
43 mastectomy shall also provide coverage incidental to the patient's covered
44 mastectomy for surgical services for reconstruction of the breast on which
45 the mastectomy was performed, surgery and reconstruction of the other breast

1 to produce a symmetrical appearance, prostheses, treatment of physical
2 complications for all stages of the mastectomy, including lymphedemas, and at
3 least two external postoperative prostheses subject to all of the terms and
4 conditions of the policy.

5 I. A contract that provides coverage for surgical services for a
6 mastectomy shall also provide coverage for mammography screening performed on
7 dedicated equipment for diagnostic purposes on referral by a patient's
8 physician, subject to all of the terms and conditions of the policy and
9 according to the following guidelines:

10 1. A baseline mammogram for a woman from age thirty-five to
11 thirty-nine.

12 2. A mammogram for a woman from age forty to forty-nine every two
13 years or more frequently based on the recommendation of the woman's
14 physician.

15 3. A mammogram every year for a woman fifty years of age and over.

16 J. Any contract that is issued to the insured and that provides
17 coverage for maternity benefits shall also provide that the maternity
18 benefits apply to the costs of the birth of any child legally adopted by the
19 insured if all of the following are true:

20 1. The child is adopted within one year of birth.

21 2. The insured is legally obligated to pay the costs of birth.

22 3. All preexisting conditions and other limitations have been met by
23 the insured.

24 4. The insured has notified the insurer of the insured's acceptability
25 to adopt children pursuant to section 8-105, within sixty days after such
26 approval or within sixty days after a change in insurance policies, plans or
27 companies.

28 K. The coverage prescribed by subsection J of this section is excess
29 to any other coverage the natural mother may have for maternity benefits
30 except coverage made available to persons pursuant to title 36, chapter 29
31 but not including coverage made available to persons defined as eligible
32 under section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e). If
33 such other coverage exists, the agency, attorney or individual arranging the
34 adoption shall make arrangements for the insurance to pay those costs that
35 may be covered under that policy and shall advise the adopting parent in
36 writing of the existence and extent of the coverage without disclosing any
37 confidential information such as the identity of the natural parent. The
38 insured adopting parents shall notify their insurer of the existence and
39 extent of the other coverage.

40 L. The director may disapprove any contract if the benefits provided
41 in the form of such contract are unreasonable in relation to the premium
42 charged.

43 M. The director shall adopt emergency rules applicable to persons who
44 are leaving active service in the armed forces of the United States and
45 returning to civilian status including:

- 1 1. Conditions of eligibility.
- 2 2. Coverage of dependents.
- 3 3. Preexisting conditions.
- 4 4. Termination of insurance.
- 5 5. Probationary periods.
- 6 6. Limitations.
- 7 7. Exceptions.
- 8 8. Reductions.
- 9 9. Elimination periods.
- 10 10. Requirements for replacement.
- 11 11. Any other condition of subscription contracts.
- 12 N. Any contract that provides maternity benefits shall not restrict
- 13 benefits for any hospital length of stay in connection with childbirth for
- 14 the mother or the newborn child to less than forty-eight hours following a
- 15 normal vaginal delivery or ninety-six hours following a cesarean section.
- 16 The contract shall not require the provider to obtain authorization from the
- 17 corporation for prescribing the minimum length of stay required by this
- 18 subsection. The contract may provide that an attending provider in
- 19 consultation with the mother may discharge the mother or the newborn child
- 20 before the expiration of the minimum length of stay required by this
- 21 subsection. The corporation shall not:
 - 22 1. Deny the mother or the newborn child eligibility or continued
 - 23 eligibility to enroll or to renew coverage under the terms of the contract
 - 24 solely for the purpose of avoiding the requirements of this subsection.
 - 25 2. Provide monetary payments or rebates to mothers to encourage those
 - 26 mothers to accept less than the minimum protections available pursuant to
 - 27 this subsection.
 - 28 3. Penalize or otherwise reduce or limit the reimbursement of an
 - 29 attending provider because that provider provided care to any insured under
 - 30 the contract in accordance with this subsection.
 - 31 4. Provide monetary or other incentives to an attending provider to
 - 32 induce that provider to provide care to an insured under the contract in a
 - 33 manner that is inconsistent with this subsection.
 - 34 5. Except as described in subsection O of this section, restrict
 - 35 benefits for any portion of a period within the minimum length of stay in a
 - 36 manner that is less favorable than the benefits provided for any preceding
 - 37 portion of that stay.
 - 38 O. Nothing in subsection N of this section:
 - 39 1. Requires a mother to give birth in a hospital or to stay in the
 - 40 hospital for a fixed period of time following the birth of the child.
 - 41 2. Prevents a corporation from imposing deductibles, coinsurance or
 - 42 other cost sharing in relation to benefits for hospital lengths of stay in
 - 43 connection with childbirth for a mother or a newborn child under the
 - 44 contract, except that any coinsurance or other cost sharing for any portion
 - 45 of a period within a hospital length of stay required pursuant to subsection

1 N of this section shall not be greater than the coinsurance or cost sharing
2 for any preceding portion of that stay.

3 3. Prevents a corporation from negotiating the level and type of
4 reimbursement with a provider for care provided in accordance with subsection
5 N of this section.

6 P. Any contract that provides coverage for diabetes shall also provide
7 coverage for equipment and supplies that are medically necessary and that are
8 prescribed by a health care provider, including:

9 1. Blood glucose monitors.

10 2. Blood glucose monitors for the legally blind.

11 3. Test strips for glucose monitors and visual reading and urine
12 testing strips.

13 4. Insulin preparations and glucagon.

14 5. Insulin cartridges.

15 6. Drawing up devices and monitors for the visually impaired.

16 7. Injection aids.

17 8. Insulin cartridges for the legally blind.

18 9. Syringes and lancets, including automatic lancing devices.

19 10. Prescribed oral agents for controlling blood sugar that are
20 included on the plan formulary.

21 11. To the extent coverage is required under medicare, podiatric
22 appliances for prevention of complications associated with diabetes.

23 12. Any other device, medication, equipment or supply for which
24 coverage is required under medicare from and after January 1, 1999. The
25 coverage required in this paragraph is effective six months after the
26 coverage is required under medicare.

27 Q. Nothing in subsection P of this section prohibits a medical service
28 corporation, a hospital service corporation or a hospital, medical, dental
29 and optometric service corporation from imposing deductibles, coinsurance or
30 other cost sharing in relation to benefits for equipment or supplies for the
31 treatment of diabetes.

32 R. Any hospital or medical service contract that provides coverage for
33 prescription drugs shall not limit or exclude coverage for any prescription
34 drug prescribed for the treatment of cancer on the basis that the
35 prescription drug has not been approved by the United States food and drug
36 administration for the treatment of the specific type of cancer for which the
37 prescription drug has been prescribed, if the prescription drug has been
38 recognized as safe and effective for treatment of that specific type of
39 cancer in one or more of the standard medical reference compendia prescribed
40 in subsection S of this section or medical literature that meets the criteria
41 prescribed in subsection S of this section. The coverage required under this
42 subsection includes covered medically necessary services associated with the
43 administration of the prescription drug. This subsection does not:

44 1. Require coverage of any prescription drug used in the treatment of
45 a type of cancer if the United States food and drug administration has

1 determined that the prescription drug is contraindicated for that type of
2 cancer.

3 2. Require coverage for any experimental prescription drug that is not
4 approved for any indication by the United States food and drug
5 administration.

6 3. Alter any law with regard to provisions that limit the coverage of
7 prescription drugs that have not been approved by the United States food and
8 drug administration.

9 4. Notwithstanding section 20-841.05, require reimbursement or
10 coverage for any prescription drug that is not included in the drug formulary
11 or list of covered prescription drugs specified in the contract.

12 5. Notwithstanding section 20-841.05, prohibit a contract from
13 limiting or excluding coverage of a prescription drug, if the decision to
14 limit or exclude coverage of the prescription drug is not based primarily on
15 the coverage of prescription drugs required by this section.

16 6. Prohibit the use of deductibles, coinsurance, copayments or other
17 cost sharing in relation to drug benefits and related medical benefits
18 offered.

19 S. For the purposes of subsection R of this section:

20 1. The acceptable standard medical reference compendia are the
21 following:

22 (a) The American hospital formulary service drug information, a
23 publication of the American society of health system pharmacists.

24 (b) The national comprehensive cancer network drugs and biologics
25 compendium.

26 (c) Thomson Micromedex compendium DrugDex.

27 (d) Elsevier gold standard's clinical pharmacology compendium.

28 (e) Other authoritative compendia as identified by the secretary of
29 the United States department of health and human services.

30 2. Medical literature may be accepted if all of the following apply:

31 (a) At least two articles from major peer reviewed professional
32 medical journals have recognized, based on scientific or medical criteria,
33 the drug's safety and effectiveness for treatment of the indication for which
34 the drug has been prescribed.

35 (b) No article from a major peer reviewed professional medical journal
36 has concluded, based on scientific or medical criteria, that the drug is
37 unsafe or ineffective or that the drug's safety and effectiveness cannot be
38 determined for the treatment of the indication for which the drug has been
39 prescribed.

40 (c) The literature meets the uniform requirements for manuscripts
41 submitted to biomedical journals established by the international committee
42 of medical journal editors or is published in a journal specified by the
43 United States department of health and human services as acceptable peer
44 reviewed medical literature pursuant to section 186(t)(2)(B) of the social
45 security act (42 United States Code section 1395x(t)(2)(B)).

1 T. A corporation shall not issue or deliver any advertising matter or
2 sales material to any person in this state until the corporation files the
3 advertising matter or sales material with the director. This subsection does
4 not require a corporation to have the prior approval of the director to issue
5 or deliver the advertising matter or sales material. If the director finds
6 that the advertising matter or sales material, in whole or in part, is false,
7 deceptive or misleading, the director may issue an order disapproving the
8 advertising matter or sales material, directing the corporation to cease and
9 desist from issuing, circulating, displaying or using the advertising matter
10 or sales material within a period of time specified by the director but not
11 less than ten days and imposing any penalties prescribed in this title. At
12 least five days before issuing an order pursuant to this subsection, the
13 director shall provide the corporation with a written notice of the basis of
14 the order to provide the corporation with an opportunity to cure the alleged
15 deficiency in the advertising matter or sales material within a single five
16 day period for the particular advertising matter or sales material at issue.
17 The corporation may appeal the director's order pursuant to title 41,
18 chapter 6, article 10. Except as otherwise provided in this subsection, a
19 corporation may obtain a stay of the effectiveness of the order as prescribed
20 in section 20-162. If the director certifies in the order and provides a
21 detailed explanation of the reasons in support of the certification that
22 continued use of the advertising matter or sales material poses a threat to
23 the health, safety or welfare of the public, the order may be entered
24 immediately without opportunity for cure and the effectiveness of the order
25 is not stayed pending the hearing on the notice of appeal but the hearing
26 shall be promptly instituted and determined.

27 U. Any contract that is offered by a hospital service corporation or
28 medical service corporation and that contains a prescription drug benefit
29 shall provide coverage of medical foods to treat inherited metabolic
30 disorders as provided by this section.

31 V. The metabolic disorders triggering medical foods coverage under
32 this section shall:

33 1. Be part of the newborn screening program prescribed in section
34 36-694.

35 2. Involve amino acid, carbohydrate or fat metabolism.

36 3. Have medically standard methods of diagnosis, treatment and
37 monitoring, including quantification of metabolites in blood, urine or spinal
38 fluid or enzyme or DNA confirmation in tissues.

39 4. Require specially processed or treated medical foods that are
40 generally available only under the supervision and direction of a physician
41 who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse
42 practitioner who is licensed pursuant to title 32, chapter 15, that must be
43 consumed throughout life and without which the person may suffer serious
44 mental or physical impairment.

1 W. Medical foods eligible for coverage under this section shall be
2 prescribed or ordered under the supervision of a physician licensed pursuant
3 to title 32, chapter 13 or 17 as medically necessary for the therapeutic
4 treatment of an inherited metabolic disease.

5 X. A hospital service corporation or medical service corporation shall
6 cover at least fifty per cent of the cost of medical foods prescribed to
7 treat inherited metabolic disorders and covered pursuant to this section. A
8 hospital service corporation or medical service corporation may limit the
9 maximum annual benefit for medical foods under this section to five thousand
10 dollars, which applies to the cost of all prescribed modified low protein
11 foods and metabolic formula.

12 Y. Any contract between a corporation and its subscribers is subject
13 to the following:

14 1. If the contract provides coverage for prescription drugs, the
15 contract shall provide coverage for any prescribed drug or device that is
16 approved by the United States food and drug administration for use as a
17 contraceptive. A corporation may use a drug formulary, multitiered drug
18 formulary or list but that formulary or list shall include oral, implant and
19 injectable contraceptive drugs, intrauterine devices and prescription barrier
20 methods if the corporation does not impose deductibles, coinsurance,
21 copayments or other cost containment measures for contraceptive drugs that
22 are greater than the deductibles, coinsurance, copayments or other cost
23 containment measures for other drugs on the same level of the formulary or
24 list.

25 2. If the contract provides coverage for outpatient health care
26 services, the contract shall provide coverage for outpatient contraceptive
27 services. For the purposes of this paragraph, "outpatient contraceptive
28 services" means consultations, examinations, procedures and medical services
29 provided on an outpatient basis and related to the use of approved United
30 States food and drug administration prescription contraceptive methods to
31 prevent unintended pregnancies.

32 3. This subsection does not apply to contracts issued to individuals
33 on a nongroup basis.

34 Z. Notwithstanding subsection Y of this section, a religious employer
35 whose religious tenets prohibit the use of prescribed contraceptive methods
36 may require that the corporation provide a contract without coverage for all
37 United States food and drug administration approved contraceptive methods. A
38 religious employer shall submit a written affidavit to the corporation
39 stating that it is a religious employer. On receipt of the affidavit, the
40 corporation shall issue to the religious employer a contract that excludes
41 coverage of prescription contraceptive methods. The corporation shall retain
42 the affidavit for the duration of the contract and any renewals of the
43 contract. Before enrollment in the plan, every religious employer that
44 invokes this exemption shall provide prospective subscribers written notice
45 that the religious employer refuses to cover all United States food and drug

1 administration approved contraceptive methods for religious reasons. This
2 subsection shall not exclude coverage for prescription contraceptive methods
3 ordered by a health care provider with prescriptive authority for medical
4 indications other than to prevent an unintended pregnancy. A corporation may
5 require the subscriber to first pay for the prescription and then submit a
6 claim to the corporation along with evidence that the prescription is for a
7 noncontraceptive purpose. A corporation may charge an administrative fee for
8 handling these claims. A religious employer shall not discriminate against
9 an employee who independently chooses to obtain insurance coverage or
10 prescriptions for contraceptives from another source.

11 AA. For the purposes of:

12 1. This section:

13 (a) "Inherited metabolic disorder" means a disease caused by an
14 inherited abnormality of body chemistry and includes a disease tested under
15 the newborn screening program prescribed in section 36-694.

16 (b) "Medical foods" means modified low protein foods and metabolic
17 formula.

18 (c) "Metabolic formula" means foods that are all of the following:

19 (i) Formulated to be consumed or administered enterally under the
20 supervision of a physician who is licensed pursuant to title 32, chapter 13
21 or 17.

22 (ii) Processed or formulated to be deficient in one or more of the
23 nutrients present in typical foodstuffs.

24 (iii) Administered for the medical and nutritional management of a
25 person who has limited capacity to metabolize foodstuffs or certain nutrients
26 contained in the foodstuffs or who has other specific nutrient requirements
27 as established by medical evaluation.

28 (iv) Essential to a person's optimal growth, health and metabolic
29 homeostasis.

30 (d) "Modified low protein foods" means foods that are all of the
31 following:

32 (i) Formulated to be consumed or administered enterally under the
33 supervision of a physician who is licensed pursuant to title 32, chapter 13
34 or 17.

35 (ii) Processed or formulated to contain less than one gram of protein
36 per unit of serving, but does not include a natural food that is naturally
37 low in protein.

38 (iii) Administered for the medical and nutritional management of a
39 person who has limited capacity to metabolize foodstuffs or certain nutrients
40 contained in the foodstuffs or who has other specific nutrient requirements
41 as established by medical evaluation.

42 (iv) Essential to a person's optimal growth, health and metabolic
43 homeostasis.

44 2. Subsection E of this section, ~~the term~~ "child", for purposes of
45 initial coverage of an adopted child or a child placed for adoption but not

1 for purposes of termination of coverage of such child, means a person under
2 ~~the age of~~ eighteen years OF AGE.

3 3. Subsection Z of this section, "religious employer" means an entity
4 for which all of the following apply:

5 (a) The entity primarily employs persons who share the religious
6 tenets of the entity.

7 (b) The entity primarily serves persons who share the religious tenets
8 of the entity.

9 (c) The entity is a nonprofit organization as described in section
10 6033(a)(2)(A) (i) or (iii) of the internal revenue code of 1986, as amended.

11 Sec. 14. Section 20-1342.01, Arizona Revised Statutes, is amended to
12 read:

13 20-1342.01. Children with disabilities

14 An individual hospital or medical expense insurance policy, delivered
15 or issued for delivery in this state more than one hundred twenty days after
16 ~~the effective date of this section, which~~ AUGUST 27, 1977 THAT provides that
17 coverage of a dependent child shall terminate ~~upon~~ ON attainment of the
18 limiting age for dependent children specified in the policy, shall also
19 provide in substance that attainment of such limiting age shall not operate
20 to terminate the coverage of ~~such~~ THAT child while the child is and continues
21 to be both incapable of self-sustaining employment by reason of ~~mental~~
22 ~~retardation~~ INTELLECTUAL DISABILITY or physical handicap and chiefly
23 dependent ~~upon~~ ON the policyholder for support and maintenance. Proof of
24 such incapacity and dependency shall be furnished to the insurer by the
25 policyholder within thirty-one days of the child's attainment of the limiting
26 age and subsequently as may be required by the insurer but not more
27 frequently than annually after the two-year period following the child's
28 attainment of the limiting age.

29 Sec. 15. Section 20-1407, Arizona Revised Statutes, is amended to
30 read:

31 20-1407. Children with disabilities

32 A group hospital or medical expense insurance policy delivered or
33 issued for delivery in this state more than one hundred twenty days after ~~the~~
34 ~~effective date of this section, which~~ AUGUST 27, 1977 THAT provides that
35 coverage of a dependent child of an employee or other member of the covered
36 group shall terminate ~~upon~~ ON attainment of the limiting age for dependent
37 children specified in the policy, shall also provide in substance that
38 attainment of such limiting age shall not operate to terminate the coverage
39 of ~~such~~ THAT child while the child is and continues to be both incapable of
40 self-sustaining employment by reason of ~~mental-retardation~~ INTELLECTUAL
41 DISABILITY or physical handicap and chiefly dependent ~~upon~~ ON the employee or
42 member for support and maintenance. Proof of such incapacity and dependency
43 shall be furnished to the insurer by the employee or member within thirty-one
44 days of the child's attainment of the limiting age and subsequently as may be

1 required by the insurer, but not more frequently than annually after the
2 two-year period following the child's attainment of the limiting age.

3 Sec. 16. Section 23-503.01, Arizona Revised Statutes, is amended to
4 read:

5 23-503.01. Coordination of vocational rehabilitation services

6 The department shall coordinate its provision of vocational
7 rehabilitation services to ~~mentally-retarded~~ INTELLECTUALLY DISABLED persons
8 with its provision of ~~mental-retardation~~ INTELLECTUAL DISABILITY services to
9 such persons, including the areas of evaluation of applicants for either type
10 of services and the development of program and rehabilitation plans for
11 ~~mentally-retarded~~ INTELLECTUALLY DISABLED persons.

12 Sec. 17. Section 36-104, Arizona Revised Statutes, is amended to read:

13 36-104. Powers and duties

14 This section is not to be construed as a statement of the department's
15 organization. This section is intended to be a statement of powers and
16 duties in addition to the powers and duties granted by section 36-103. The
17 director shall:

18 1. Administer the following services:

19 (a) Administrative services, which shall include, ~~but not be limited~~
20 ~~to,~~ AT A MINIMUM the functions of accounting, personnel, standards
21 certification, electronic data processing, vital statistics and the
22 development, operation and maintenance of buildings and grounds utilized by
23 the department.

24 (b) Public health support services, which shall include, ~~but not be~~
25 ~~limited to~~ AT A MINIMUM:

26 (i) Consumer health protection programs, ~~to~~ THAT include, ~~but not be~~
27 ~~limited to,~~ AT LEAST the functions of community water supplies, general
28 sanitation, vector control and food and drugs.

29 (ii) Epidemiology and disease control programs, ~~to~~ THAT include, ~~but~~
30 ~~not be limited to,~~ AT LEAST the functions of chronic disease, accident and
31 injury control, communicable diseases, tuberculosis, venereal disease and
32 others.

33 (iii) Laboratory services programs.

34 (iv) Health education and training programs.

35 (v) Disposition of human bodies programs.

36 (c) Community health services, which shall include, ~~but not be limited~~
37 ~~to~~ AT A MINIMUM:

38 (i) Medical services programs, ~~to~~ THAT include, ~~but not be limited to,~~
39 AT LEAST the functions of maternal and child health, preschool health
40 screening, family planning, public health nursing, premature and newborn
41 program, immunizations, nutrition, dental care prevention and migrant
42 health.

43 (ii) Dependency health care services programs, ~~to~~ THAT include, ~~but~~
44 ~~not be limited to,~~ AT LEAST the functions of need determination, availability

- 1 of health resources to medically dependent INDIVIDUALS, quality control,
2 utilization control and industry monitoring.
- 3 (iii) ~~Crippled~~ PHYSICALLY DISABLED children's services programs.
4 (iv) Programs for the prevention and early detection of ~~mental~~
5 ~~retardation~~ AN INTELLECTUAL DISABILITY.
- 6 (d) Program planning, which shall include, ~~but not be limited to~~ AT
7 LEAST THE FOLLOWING:
- 8 (i) An organizational unit for comprehensive health planning programs.
9 (ii) Program coordination, evaluation and development.
10 (iii) Need determination programs.
11 (iv) Health information programs.
- 12 2. Include and administer, within the office of the director, staff
13 services, which shall include, ~~but not be limited to,~~ AT A MINIMUM budget
14 preparation, public information, appeals, hearings, legislative and federal
15 government liaison, grant development and management and departmental and
16 interagency coordination.
- 17 3. Make rules and regulations for the organization and proper and
18 efficient operation of the department.
- 19 4. Determine when a health care emergency or medical emergency
20 situation exists or occurs within the state that cannot be satisfactorily
21 controlled, corrected or treated by the health care delivery systems and
22 facilities available. When such A situation is determined to exist, the
23 director shall immediately report ~~such~~ THAT situation to the legislature and
24 the governor. ~~Such~~ THE report shall include information on the scope of the
25 emergency, recommendations for solution of the emergency and estimates of
26 costs involved.
- 27 5. Provide a system of unified and coordinated health services and
28 programs between the state and county governmental health units at all levels
29 of government.
- 30 6. Formulate policies, plans and programs to effectuate the missions
31 and purposes of the department.
- 32 7. Make contracts and incur obligations within the general scope of
33 ~~its~~ the DEPARTMENT'S activities and operations subject to the availability
34 of funds.
- 35 8. Be designated as the single state agency for the purposes of
36 administering and in furtherance of each federally supported state plan.
- 37 9. Provide information and advice on request by local, state and
38 federal agencies and by private citizens, business enterprises and community
39 organizations on matters within the scope of ~~its~~ THE DEPARTMENT'S duties
40 subject to the departmental rules and regulations on the confidentiality of
41 information.
- 42 10. Establish and maintain separate financial accounts as required by
43 federal law or regulations.
- 44 11. Advise with and make recommendations to the governor and the
45 legislature on all matters concerning ~~its~~ THE DEPARTMENT'S objectives.

- 1 12. Take appropriate steps to reduce or contain costs in the field of
2 health services.
- 3 13. Encourage and assist in the adoption of practical methods of
4 improving systems of comprehensive planning, of program planning, of priority
5 setting and of allocating resources.
- 6 14. Encourage an effective use of available federal resources in this
7 state.
- 8 15. Research, recommend, advise and assist in the establishment of
9 community or area health facilities, both public and private, and encourage
10 the integration of planning, services and programs for the development of the
11 state's health delivery capability.
- 12 16. Promote the effective utilization of health manpower and health
13 facilities ~~which~~ THAT provide health care for the citizens of this state.
- 14 17. Take appropriate steps to provide health care services to the
15 medically dependent citizens of this state.
- 16 18. Certify training on the nature of sudden infant death syndrome for
17 use by professional firefighters and certified emergency medical technicians
18 as part of their basic and continuing training requirement.
- 19 19. Certify training on the nature of sudden infant death syndrome,
20 which shall include information on the investigation and handling of cases
21 involving sudden and unexplained infant death for use by law enforcement
22 officers as part of their basic training requirement.
- 23 20. Adopt protocols on the manner in which an autopsy shall be
24 conducted under section 11-597, subsection D in cases of sudden and
25 unexplained infant death.
- 26 21. Cooperate with the Arizona-Mexico commission in the governor's
27 office and with researchers at universities in this state to collect data and
28 conduct projects in the United States and Mexico on issues that are within
29 the scope of the department's duties and that relate to quality of life,
30 trade and economic development in this state in a manner that will help the
31 Arizona-Mexico commission to assess and enhance the economic competitiveness
32 of this state and of the Arizona-Mexico region.
- 33 22. Administer the federal family violence prevention and services act
34 grants, and the department is designated as this state's recipient of federal
35 family violence prevention and services act grants.
- 36 23. Accept and spend private grants of monies, gifts and devises for
37 the purposes of methamphetamine education. The department shall disburse
38 these monies to local prosecutorial or law enforcement agencies with existing
39 programs, faith based organizations and nonprofit entities that are qualified
40 under section 501(c)(3) of the United States internal revenue code, including
41 nonprofit entities providing services to women with a history of dual
42 diagnosis disorders, AND that provide educational programs on the
43 repercussions of methamphetamine use. State general fund monies shall not be
44 spent for the purposes of this paragraph. If the director does not receive
45 sufficient monies from private sources to carry out the purposes of this

1 paragraph, the director shall not provide the educational programs prescribed
2 in this paragraph. Grant monies received pursuant to this paragraph are no
3 lapsing and do not revert to the state general fund at the close of the
4 fiscal year.

5 24. Identify successful methamphetamine prevention programs in other
6 states that may be implemented in this state.

7 25. Pursuant to ~~sections 36-1691, 36-1692 and 36-1693~~ CHAPTER 13,
8 ARTICLE 8 OF THIS TITLE, coordinate all public health and risk assessment
9 issues associated with a chemical or other toxic fire event if a request for
10 the event is received from the incident commander, ~~or~~ the emergency response
11 commission or the department of public safety and if funding is available.
12 Coordination of public health issues shall include general environmental
13 health consultation and risk assessment services consistent with ~~sections~~
14 ~~36-1691, 36-1692 and 36-1693~~ CHAPTER 13, ARTICLE 8 OF THIS TITLE and, in
15 consultation with the Arizona poison control system, informing the public as
16 to potential public health risks from the environmental exposure. Pursuant
17 to ~~sections 36-1691, 36-1692 and 36-1693~~ CHAPTER 13, ARTICLE 8 OF THIS TITLE,
18 the department of health services shall also prepare a report, in
19 consultation with appropriate state, federal and local governmental agencies,
20 that evaluates the public health risks from the environmental exposure. The
21 department of health services' report shall include any department of
22 environmental quality report and map of smoke dispersion from the fire, the
23 results of any environmental samples taken by the department of environmental
24 quality and the toxicological implications and public health risks of the
25 environmental exposure. The department of health services shall consult with
26 the Arizona poison control system regarding toxicology issues and shall
27 prepare and produce its report for the public as soon as practicable after
28 the event. The department of health services shall not use any monies
29 pursuant to section 49-282, subsection E, to implement this paragraph. ~~For~~
30 ~~the purposes of this paragraph, "chemical or other toxic fire event" means a~~
31 ~~fire at a building that is required to be tracked in the municipal hazardous~~
32 ~~material tracking process program pursuant to section 26-343.01.~~

33 Sec. 18. Section 36-137, Arizona Revised Statutes, is amended to read:
34 36-137. Annual report of director

35 The director shall submit annually to the governor, the president of
36 the senate and the speaker of the house of representatives a copy of the
37 annual report setting forth:

- 38 1. The condition of public health in the state.
- 39 2. The activities of the department during the preceding fiscal year.
- 40 3. The work done in each county.
- 41 4. The character and extent of all diseases reported.
- 42 5. The expenditures of the department and of each county or district
43 health department.
- 44 6. Recommendations ~~he~~ THE DIRECTOR deems advisable for protection of
45 the public health.

1 7. The financial statement of the affairs of the Arizona state
2 hospital.

3 8. The operations and administration of the program of service for
4 children ~~who are crippled~~ WITH A PHYSICAL DISABILITY or who are suffering
5 from conditions ~~which~~ THAT lead to ~~crippling~~ A PHYSICAL DISABILITY.

6 Sec. 19. Section 36-203, Arizona Revised Statutes, is amended to read:
7 36-203. Intellectually disabled persons assigned to state
8 hospital; duties of division

9 A. The division shall develop and provide, in coordination with the
10 department of economic security, specialized treatment programs for ~~mentally~~
11 ~~retarded~~ persons WITH AN INTELLECTUAL DISABILITY who have been admitted to
12 the state hospital. The division may contract with the department of
13 economic security in providing ~~such~~ THESE programs.

14 B. The division ~~shall~~, to the extent practicable, SHALL provide
15 separate areas at the state hospital for persons diagnosed as ~~mentally~~
16 ~~retarded~~ INTELLECTUALLY DISABLED and ~~shall~~, to the extent practicable, SHALL
17 provide that treatment programs developed pursuant to subsection A of this
18 section are separate from treatment programs for other patients and for
19 separate use of facilities by persons diagnosed as ~~mentally-retarded~~
20 INTELLECTUALLY DISABLED.

21 C. The division, ~~upon~~ ON request of a parent or guardian of a ~~mentally~~
22 ~~retarded~~ minor WITH AN INTELLECTUAL DISABILITY or the guardian of ~~a mentally~~
23 ~~retarded~~ AN adult WITH AN INTELLECTUAL DISABILITY or ~~upon~~ ON the request of
24 ~~a mentally-retarded~~ AN adult WITH AN INTELLECTUAL DISABILITY, shall notify
25 the department of economic security ~~prior to~~ BEFORE the release of ~~such~~ THAT
26 person from the state hospital and request that the department of economic
27 security provide placement evaluation and case management services for ~~such~~
28 THAT person. ~~Such~~ THE evaluation shall consider the ~~mentally-retarded~~
29 person's needs for housing, day programs, employment training, employment and
30 support services.

31 D. The division, ~~may, upon~~ ON the application of a parent or guardian
32 of a ~~mentally-retarded~~ minor WITH AN INTELLECTUAL DISABILITY or the guardian
33 of a mentally retarded adult or ~~upon~~ ON the request of a ~~mentally-retarded~~ AN
34 adult WITH AN INTELLECTUAL DISABILITY, when the ~~mentally-retarded~~ person has
35 been authorized for discharge from the state hospital, MAY provide interim
36 care and custody for ~~such-mentally-retarded~~ THAT person pending the
37 availability of ~~mental-retardation~~ INTELLECTUAL DISABILITY programs and
38 services in accordance with ~~the provisions of~~ section 36-556.

39 Sec. 20. Section 36-261, Arizona Revised Statutes, is amended to read:
40 36-261. Powers and duties; expenditure limitation

41 A. The department of health services shall:

42 1. Employ a full-time or part-time medical director and a full-time or
43 part-time administrator for children's rehabilitative services who shall have
44 such titles and duties as shall be fixed by the director. Compensation of

- 1 the medical director and the administrator shall be as determined pursuant to
2 section 38-611.
- 3 2. Supervise, control and establish policies for children's
4 rehabilitative services.
- 5 3. Adopt all rules and policies for the operation of a children's
6 rehabilitative services program.
- 7 4. Employ such medical and other staff as may be needed, including
8 resident physicians, whose compensation shall be as determined pursuant to
9 section 38-611.
- 10 5. Establish and administer a program of service for children who are
11 ~~crippled~~ CHRONICALLY ILL OR PHYSICALLY DISABLED or who are suffering from
12 conditions ~~which~~ THAT lead to ~~crippling~~ A CHRONIC ILLNESS OR A PHYSICAL
13 DISABILITY. The program shall provide for:
- 14 (a) Development, extension and improvement of services for locating
15 such children.
- 16 (b) Furnishing of medical, surgical, corrective and other services and
17 care.
- 18 (c) Furnishing of facilities for diagnosis, hospitalization and
19 aftercare.
- 20 (d) Supervision of the administration of services in the program ~~which~~
21 THAT are not administered directly by the department.
- 22 (e) The extension and improvement of any services included in the
23 program of services for chronically ill or physically disabled children as
24 required by this section.
- 25 (f) Cooperation with medical, health, nursing and welfare groups and
26 organizations and with any agency of the state charged with administration of
27 laws providing for vocational rehabilitation of physically handicapped
28 children.
- 29 (g) Cooperation with the federal government through its appropriate
30 agency or instrumentality in developing, extending and improving services for
31 chronically ill or physically disabled children.
- 32 (h) Receipt and expenditure of funds made available to the department
33 for services to chronically ill or physically disabled children by the
34 federal government, the state or its political subdivisions or from other
35 sources, excluding monies received from parents or guardians for the care of
36 children.
- 37 (i) Carrying on research and compiling statistics.
- 38 (j) Making necessary expenditures in connection with the duties
39 provided in this section.
- 40 (k) Establishing and maintaining safeguards relating to the
41 confidential aspect of medical records.
- 42 (l) Acceptance and use of federal funds for children's rehabilitative
43 services at the discretion of the department and subject to any limitations
44 imposed by the annual state appropriation bill.

1 (m) Such other duties and responsibilities found necessary for the
2 effective operation of a program for chronically ill or physically disabled
3 children.

4 6. Establish a statewide computerized information and referral service
5 for chronically ill or physically disabled children to link those children
6 and their families with local service providers.

7 7. Deposit in the state general fund all monies received from parents
8 or guardians for the care of children.

9 8. Deposit in the state general fund all monies received from adults,
10 other responsible persons, agencies or third-party payors for care provided
11 pursuant to section 36-797.44.

12 B. In order to carry out ~~the provisions of~~ subsection A of this
13 section, the director may operate outpatient treatment facilities for
14 chronically ill or physically disabled children and shall contract on the
15 basis of competitive sealed bids for the care and treatment of chronically
16 ill or physically disabled children in accordance with subsection C of this
17 section.

18 C. The director shall prepare and issue a public request for proposal
19 including a proposed contract format, at least once every four years, to
20 contract for the care and treatment of chronically ill or physically disabled
21 children subject to the following authorizations and limitations:

22 1. The scope of the contracted services shall include inpatient
23 treatment services, physician services and other care and treatment services
24 and outpatient treatment services ~~which~~ THAT shall not be mandated at a
25 single location.

26 2. Bids may be accepted from hospital and medical service
27 corporations, health care services organizations, hospitals, physicians and
28 any other qualified public or private persons.

29 3. A bidder's direct costs, as defined in the request for proposal,
30 shall be disclosed in and be the basis of the bid submitted. Direct costs
31 shall not include depreciable real or personal property with an original cost
32 of over one thousand dollars. For bid evaluation purposes only, the director
33 shall specify a uniform assumed collection rate applicable to all
34 bidders. If the director executes fee-for-services health care contracts,
35 the contracts shall provide the maximum payment to be made for specific
36 procedures and services.

37 4. The department may award a contract at an amount less than the
38 amount bid, by use of any procedure authorized by the procurement code.

39 5. If the director receives an insufficient number of bids for a
40 category of services or in a medical emergency, the director may contract
41 directly for such services.

42 6. An invitation for bids, a request for proposals or ANY other
43 solicitation may be cancelled or any or all bids or proposals may be rejected
44 in whole or in part as may be specified in the solicitation if it is in the
45 best interests of this state. The reasons for the cancellation or rejection

1 shall be made part of the contract file. If the amount appropriated for
2 services provided pursuant to this section is insufficient to pay for the
3 scope of services as bid, the director may reduce the scope of services to
4 reflect the amount appropriated or may cancel any invitation for bids,
5 requests for proposals or other solicitation and contract directly for such
6 services. ~~Such~~ Reductions or suspensions shall not apply to the continuity
7 of care for persons already receiving ~~such~~ THESE services. Any decision to
8 reduce services shall be made independently from any other modification of
9 services.

10 7. ~~The provisions of~~ Title 41, chapter 23 shall apply to the
11 procurement process set forth in this section to the extent that ~~they are~~ IT
12 IS not inconsistent with ~~the provisions of~~ this section. The director may
13 vary the bid format and the terms of the request for proposal each bid term.

14 D. In awarding contracts for inpatient and outpatient treatment
15 services under this section, the department shall use the following criteria
16 in addition to other consistent criteria:

17 1. Cost to this state.

18 2. The treatment facility's demonstrated experience in and
19 qualifications for providing pediatric services.

20 E. If the provision of any services under this section requires
21 compliance with chapter 4, article 2 of this title, the contractor shall
22 comply ~~prior to~~ BEFORE commencement of services under this section.

23 F. The department ~~may~~, subject to appropriation ~~therefor~~, MAY provide
24 or arrange for the provision of health services and supervisory care for
25 child patients of other state agencies.

26 G. The department ~~may~~, through the children's rehabilitative services
27 division, MAY establish and administer a program for children with sickle
28 cell anemia, as provided for in section 36-797.43.

29 H. The department ~~may~~, through the children's rehabilitative services
30 division, MAY establish and administer a program for adults with sickle cell
31 anemia, as provided for in section 36-797.44.

32 I. The director may provide for the education of inpatients at any
33 facility ~~which~~ THAT contracts with the director to provide care and treatment
34 of chronically ill or physically disabled children. The director shall
35 include in ~~his~~ THE annual proposed budget a request for sufficient monies to
36 finance the education of inpatients as authorized in this subsection.

37 J. The total amount of state monies that may be spent in any fiscal
38 year by the department of health services for children's rehabilitative
39 services shall not exceed the amount appropriated or authorized by section
40 35-173 for that purpose. This section shall not be construed to impose a
41 duty on an officer, agent or employee of this state to discharge a
42 responsibility or to create any right in a person or group if the discharge
43 or right would require an expenditure of state monies in excess of the
44 expenditure authorized by legislative appropriation for that specific
45 purpose.

1 Sec. 21. Section 36-501, Arizona Revised Statutes, is amended to read:

2 36-501. Definitions

3 In this chapter, unless the context otherwise requires:

4 1. "Admitting officer" means a psychiatrist or other physician or
5 psychiatric and mental health nurse practitioner with experience in
6 performing psychiatric examinations who has been designated as an admitting
7 officer of the evaluation agency by the person in charge of the evaluation
8 agency.

9 2. "Chief medical officer" means the chief medical officer under the
10 supervision of the superintendent of the state hospital.

11 3. "Contraindicated" means that access is reasonably likely to
12 endanger the life or physical safety of the patient or another person.

13 4. "Court" means the superior court in the county in this state in
14 which the patient resides or was found before screening or emergency
15 admission under this title.

16 5. "Danger to others" means that the judgment of a person who has a
17 mental disorder is so impaired that the person is unable to understand the
18 person's need for treatment and as a result of the person's mental disorder
19 the person's continued behavior can reasonably be expected, on the basis of
20 competent medical opinion, to result in serious physical harm.

21 6. "Danger to self":

22 (a) Means behavior that, as a result of a mental disorder:

23 (i) Constitutes a danger of inflicting serious physical harm on
24 oneself, including attempted suicide or the serious threat thereof, if the
25 threat is such that, when considered in the light of its context and in light
26 of the individual's previous acts, it is substantially supportive of an
27 expectation that the threat will be carried out.

28 (ii) Without hospitalization will result in serious physical harm or
29 serious illness to the person.

30 (b) Does not include behavior that establishes only the condition of
31 gravely disabled.

32 7. "Department" means the department of health services.

33 8. "Deputy director" means the deputy director of the division of
34 behavioral health in the department of health services.

35 9. "Detention" means the taking into custody of a patient or proposed
36 patient.

37 10. "Director" means the director of the department.

38 11. "Division" means the division of behavioral health in the
39 department.

40 12. "Evaluation" means a professional multidisciplinary analysis based
41 on data describing the person's identity, biography and medical,
42 psychological and social conditions carried out by a group of persons
43 consisting of not less than the following:

44 (a) Two licensed physicians, who shall be qualified psychiatrists, if
45 possible, or at least experienced in psychiatric matters, and who shall

1 examine and report their findings independently. The person against whom a
2 petition has been filed shall be notified that the person may select one of
3 the physicians. A psychiatric resident in a training program approved by the
4 American medical association or by the American osteopathic association may
5 examine the person in place of one of the psychiatrists if the resident is
6 supervised in the examination and preparation of the affidavit and testimony
7 in court by a qualified psychiatrist appointed to assist in the resident's
8 training, and if the supervising psychiatrist is available for discussion
9 with the attorneys for all parties and for court appearance and testimony if
10 requested by the court or any of the attorneys.

11 (b) Two other individuals, one of whom, if available, shall be a
12 psychologist and in any event a social worker familiar with mental health and
13 human services that may be available placement alternatives appropriate for
14 treatment. An evaluation may be conducted on an inpatient basis, an
15 outpatient basis or a combination of both, and every reasonable attempt shall
16 be made to conduct the evaluation in any language preferred by the person.

17 13. "Evaluation agency" means a health care agency that is licensed by
18 the department and that has been approved pursuant to this title, providing
19 those services required of such agency by this chapter.

20 14. "Examination" means an exploration of the person's past psychiatric
21 history and of the circumstances leading up to the person's presentation, a
22 psychiatric exploration of the person's present mental condition and a
23 complete physical examination.

24 15. "Family member" means a spouse, parent, adult child, adult sibling
25 or other blood relative of a person undergoing treatment or evaluation
26 pursuant to this chapter.

27 16. "Gravely disabled" means a condition evidenced by behavior in which
28 a person, as a result of a mental disorder, is likely to come to serious
29 physical harm or serious illness because the person is unable to provide for
30 the person's own basic physical needs.

31 17. "Health care decision maker" has the same meaning prescribed in
32 section 12-2801.

33 18. "Health care entity" means a health care provider, the department,
34 the Arizona health care cost containment system administration or a regional
35 behavioral health authority under contract with the department.

36 19. "Health care provider" means a health care institution as defined
37 in section 36-401 that is licensed as a behavioral health provider pursuant
38 to department rules or a mental health provider.

39 20. "Independent evaluator" means a licensed physician, psychiatric and
40 mental health nurse practitioner or psychologist selected by the person to be
41 evaluated or by such person's attorney.

42 21. "Informed consent" means a voluntary decision following
43 presentation of all facts necessary to form the basis of an intelligent
44 consent by the patient or guardian with no minimizing of known dangers of any
45 procedures.

1 22. "Least restrictive treatment alternative" means the treatment plan
2 and setting that infringe in the least possible degree with the patient's
3 right to liberty and that are consistent with providing needed treatment in a
4 safe and humane manner.

5 23. "Licensed physician" means any medical doctor or doctor of
6 osteopathy who is either:

7 (a) Licensed in this state.

8 (b) A full-time hospital physician licensed in another state and
9 serving on the staff of a hospital operated or licensed by the United States
10 government.

11 24. "Medical director of an evaluation agency" means a psychiatrist, or
12 other licensed physician experienced in psychiatric matters, who is
13 designated in writing by the governing body of the agency as the person in
14 charge of the medical services of the agency for the purposes of this chapter
15 and may include the chief medical officer of the state hospital.

16 25. "Medical director of a mental health treatment agency" means a
17 psychiatrist, or other licensed physician experienced in psychiatric matters,
18 who is designated in writing by the governing body of the agency as the
19 person in charge of the medical services of the agency for the purposes of
20 this chapter and includes the chief medical officer of the state hospital.

21 26. "Mental disorder" means a substantial disorder of the person's
22 emotional processes, thought, cognition or memory. Mental disorder is
23 distinguished from:

24 (a) Conditions that are primarily those of drug abuse, alcoholism or
25 ~~mental retardation~~ INTELLECTUAL DISABILITY, unless, in addition to one or
26 more of these conditions, the person has a mental disorder.

27 (b) The declining mental abilities that directly accompany impending
28 death.

29 (c) Character and personality disorders characterized by lifelong and
30 deeply ingrained antisocial behavior patterns, including sexual behaviors
31 that are abnormal and prohibited by statute unless the behavior results from
32 a mental disorder.

33 27. "Mental health provider" means any physician or provider of mental
34 health or behavioral health services involved in evaluating, caring for,
35 treating or rehabilitating a patient.

36 28. "Mental health treatment agency" means the state hospital or a
37 health care agency that is licensed by the department and that provides those
38 services that are required of the agency by this chapter.

39 29. "Outpatient treatment" or "combined inpatient and outpatient
40 treatment" means any treatment program not requiring continuous inpatient
41 hospitalization.

42 30. "Outpatient treatment plan" means a treatment plan that does not
43 require continuous inpatient hospitalization.

44 31. "Patient" means any person undergoing examination, evaluation or
45 behavioral or mental health treatment under this chapter.

1 32. "Peace officers" means sheriffs of counties, constables, marshals
2 and policemen of cities and towns.

3 33. "Persistently or acutely disabled" means a severe mental disorder
4 that meets all the following criteria:

5 (a) If not treated has a substantial probability of causing the person
6 to suffer or continue to suffer severe and abnormal mental, emotional or
7 physical harm that significantly impairs judgment, reason, behavior or
8 capacity to recognize reality.

9 (b) Substantially impairs the person's capacity to make an informed
10 decision regarding treatment, and this impairment causes the person to be
11 incapable of understanding and expressing an understanding of the advantages
12 and disadvantages of accepting treatment and understanding and expressing an
13 understanding of the alternatives to the particular treatment offered after
14 the advantages, disadvantages and alternatives are explained to that person.

15 (c) Has a reasonable prospect of being treatable by outpatient,
16 inpatient or combined inpatient and outpatient treatment.

17 34. "Prepetition screening" means the review of each application
18 requesting court-ordered evaluation, including an investigation of facts
19 alleged in such application, an interview with each applicant and an
20 interview, if possible, with the proposed patient. The purpose of the
21 interview with the proposed patient is to assess the problem, explain the
22 application and, when indicated, attempt to persuade the proposed patient to
23 receive, on a voluntary basis, evaluation or other services.

24 35. "Prescribed form" means a form established by a court or the rules
25 of the division that have been approved by the director or in accordance with
26 the laws of this state.

27 36. "Professional" means a physician who is licensed pursuant to title
28 32, chapter 13 or 17, a psychologist who is licensed pursuant to title 32,
29 chapter 19.1 or a psychiatric and mental health nurse practitioner who is
30 certified pursuant to title 32, chapter 15.

31 37. "Proposed patient" means a person for whom an application for
32 evaluation has been made or a petition for court-ordered evaluation has been
33 filed.

34 38. "Psychiatric and mental health nurse practitioner" means a
35 registered nurse practitioner as defined in section 32-1601 who has completed
36 an adult or family psychiatric and mental health nurse practitioner program
37 and who is certified as an adult or family psychiatric and mental health
38 nurse practitioner by the state board of nursing.

39 39. "Psychiatrist" means a licensed physician who has completed three
40 years of graduate training in psychiatry in a program approved by the
41 American medical association or the American osteopathic association.

42 40. "Psychologist" means a person who is licensed under title 32,
43 chapter 19.1 and who is experienced in the practice of clinical psychology.

44 41. "Records" means all communications that are recorded in any form or
45 medium and that relate to patient examination, evaluation or behavioral or

1 mental health treatment. Records include medical records that are prepared
2 by a health care provider or other providers. Records do not include:

3 (a) Materials that are prepared in connection with utilization review,
4 peer review or quality assurance activities, including records that a health
5 care provider prepares pursuant to section 36-441, 36-445, 36-2402 or
6 36-2917.

7 (b) Recorded telephone and radio calls to and from a publicly operated
8 emergency dispatch office relating to requests for emergency services or
9 reports of suspected criminal activity.

10 42. "Screening agency" means a health care agency that is licensed by
11 the department and that provides those services required of such agency by
12 this chapter.

13 43. "Social worker" means a person who has completed two years of
14 graduate training in social work in a program approved by the council of
15 social work education and who has experience in mental health.

16 44. "State hospital" means the Arizona state hospital.

17 45. "Superintendent" means the superintendent of the state hospital.

18 Sec. 22. Section 36-551, Arizona Revised Statutes, is amended to read:

19 36-551. Definitions

20 In this chapter, unless the context otherwise requires:

21 1. "Adaptive behavior" means the effectiveness or degree to which the
22 individual meets the standards of personal independence and social
23 responsibility expected of the person's age and cultural group.

24 2. "Adult developmental home" means a residential setting in a family
25 home in which the care, physical custody and supervision of the adult client
26 are the responsibility, under a twenty-four hour care model, of the licensee
27 who, in that capacity, is not an employee of the division or of a service
28 provider and the home provides the following services for a group of siblings
29 or up to three adults with developmental disabilities:

30 (a) Room and board.

31 (b) Habilitation.

32 (c) Appropriate personal care.

33 (d) Appropriate supervision.

34 3. "Adult household member" means a person who is at least eighteen
35 years of age and who resides in an adult developmental home, child
36 developmental foster home, secure setting or home and community based service
37 setting for at least thirty days or who resides in the household throughout
38 the year for more than a cumulative total of thirty days.

39 4. "Advisory council" means the developmental disabilities advisory
40 council.

41 5. "Arizona training program facility" means a state operated
42 institution for developmentally disabled clients of the department.

43 6. "Attributable to cognitive disability, epilepsy, cerebral palsy or
44 autism" means that there is a causal relationship between the presence of an
45 impairing condition and the developmental disability.

1 7. "Autism" means a condition characterized by severe disorders in
2 communication and behavior resulting in limited ability to communicate,
3 understand, learn and participate in social relationships.

4 ~~9-~~ 8. "Case management" means coordinating the assistance needed by
5 persons with developmental disabilities and their families in order to ensure
6 that persons with developmental disabilities attain their maximum potential
7 for independence, productivity and integration into the community.

8 ~~8-~~ 9. "Case manager" means a person who coordinates the
9 implementation of the individual program plan of goals, objectives and
10 appropriate services for persons with developmental disabilities.

11 10. "Cerebral palsy" means a permanently disabling condition resulting
12 from damage to the developing brain that may occur before, after or during
13 birth and that results in loss or impairment of control over voluntary
14 muscles.

15 11. "Child developmental foster home" means a residential setting in a
16 family home in which the care, physical custody and supervision of the child
17 are the responsibility, under a twenty-four hour care model, of the licensee
18 who serves as the foster parent of the child in the home setting and who, in
19 that capacity, is not an employee of the division or of a service provider
20 and the home provides the following services for a group of siblings or up to
21 three children with developmental disabilities:

- 22 (a) Room and board.
- 23 (b) Habilitation.
- 24 (c) Appropriate personal care.
- 25 (d) Appropriate supervision.

26 12. "Client" means a person receiving developmental disabilities
27 services from the department.

28 13. "Cognitive disability" means a condition that involves subaverage
29 general intellectual functioning, that exists concurrently with deficits in
30 adaptive behavior manifested before age eighteen and that is sometimes
31 referred to as intellectual disability ~~or mental retardation~~.

32 14. "Community residential setting" means a child developmental foster
33 home, an adult developmental home or a secure setting operated or contracted
34 by the department in which persons with developmental disabilities live and
35 are provided with appropriate supervision by the service provider responsible
36 for the operation of the residential setting.

37 15. "Consent" means voluntary informed consent. Consent is voluntary
38 if not given as the result of coercion or undue influence. Consent is
39 informed if the person giving the consent has been informed of and
40 comprehends the nature, purpose, consequences, risks and benefits of the
41 alternatives to the procedure, and has been informed and comprehends that
42 withholding or withdrawal of consent will not prejudice the future provision
43 of care and services to the client. In cases of unusual or hazardous
44 treatment procedures performed pursuant to section 36-561, subsection A,
45 experimental research, organ transplantation and nontherapeutic surgery,

1 consent is informed if, in addition to the foregoing, the person giving the
2 consent has been informed of and comprehends the method to be used in the
3 proposed procedure.

4 16. "Daily habilitation" means habilitation as defined in this section
5 except that the method of payment is for one unit per residential day.

6 17. "Department" means the department of economic security.

7 18. "Developmental disability" means either a strongly demonstrated
8 potential that a child under ~~the age of~~ six years **OF AGE** is developmentally
9 disabled or will become developmentally disabled, as determined by a test
10 performed pursuant to section 36-694 or by other appropriate tests, or a
11 severe, chronic disability that:

12 (a) Is attributable to cognitive disability, cerebral palsy, epilepsy
13 or autism.

14 (b) Is manifested before age eighteen.

15 (c) Is likely to continue indefinitely.

16 (d) Results in substantial functional limitations in three or more of
17 the following areas of major life activity:

18 (i) Self-care.

19 (ii) Receptive and expressive language.

20 (iii) Learning.

21 (iv) Mobility.

22 (v) Self-direction.

23 (vi) Capacity for independent living.

24 (vii) Economic self-sufficiency.

25 (e) Reflects the need for a combination and sequence of individually
26 planned or coordinated special, interdisciplinary or generic care, treatment
27 or other services that are of lifelong or extended duration.

28 19. "Director" means the director of the department of economic
29 security.

30 20. "Division" means the division of developmental disabilities in the
31 department of economic security.

32 21. "Epilepsy" means a neurological condition characterized by abnormal
33 electrical-chemical discharge in the brain. This discharge is manifested in
34 various forms of physical activities called seizures.

35 22. "Group home" means a residential setting for not more than six
36 persons with developmental disabilities that is operated by a service
37 provider under contract with the division and that provides, in a shared
38 living environment, room and board and daily habilitation. Group home does
39 not include an adult developmental home, a child developmental foster home, a
40 secure setting or an intermediate care facility for the ~~mentally-retarded~~
41 **PERSONS WITH AN INTELLECTUAL DISABILITY**.

42 23. "Guardian" means the person who, under court order, is appointed to
43 fulfill the powers and duties prescribed in section 14-5312. Guardian does
44 not include a guardian pursuant to section 14-5312.01.

1 24. "Habilitation" means the process by which a person is assisted to
2 acquire and maintain those life skills that enable the person to cope more
3 effectively with personal and environmental demands and to raise the level of
4 the person's physical, mental and social efficiency.

5 25. "Indigent" means a developmentally disabled person whose estate or
6 parent is unable to bear the full cost of maintaining or providing services
7 for that person in a developmental disabilities program.

8 26. "Individual program plan" means a written statement of services to
9 be provided to a person with developmental disabilities, including
10 habilitation goals and objectives, which is developed following initial
11 placement evaluation and revised after periodic evaluations.

12 27. "Intermediate care facility for ~~the mentally retarded~~ PERSONS WITH
13 AN INTELLECTUAL DISABILITY" means a facility that primarily provides health
14 and rehabilitative services to persons with developmental disabilities that
15 are above the service level of room and board or supervisory care services or
16 personal care services as defined in section 36-401 but that are less
17 intensive than skilled nursing services.

18 28. "Large group setting" means a setting that in addition to
19 residential care provides support services such as therapy, recreation and
20 transportation to seven or more developmentally disabled persons who require
21 intensive supervision.

22 29. "Least restrictive alternative" means an available program or
23 facility that fosters independent living, that is the least confining for the
24 client's condition and where service and treatment are provided in the least
25 intrusive manner reasonably and humanely appropriate to the individual's
26 needs.

27 30. "Likely to continue indefinitely" means that the developmental
28 disability has a reasonable likelihood of continuing for a protracted period
29 of time or for life.

30 31. "Manifested before age eighteen" means that the disability must be
31 apparent and have a substantially limiting effect on a person's functioning
32 before age eighteen.

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

35 33. "Placement evaluation" means an interview and evaluation of a
36 developmentally disabled person and a review of the person's prior medical
37 and program histories to determine the appropriate developmental disability
38 programs and services for the person and recommendations for specific program
39 placements for the person.

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

42 35. "Respite services" means services that provide a short-term or
43 long-term interval of rest or relief to the care provider of a
44 developmentally disabled person.

1 36. "Responsible person" means the parent or guardian of a
2 developmentally disabled minor, the guardian of a developmentally disabled
3 adult or a developmentally disabled adult who is a client or an applicant for
4 whom no guardian has been appointed.

5 37. "Secure facility" means a facility that is licensed and monitored
6 by the division, that is designed to provide both residential and program
7 services within the facility and that is operated to prevent clients from
8 leaving because of the danger they may present to themselves and the
9 community.

10 38. "Service provider" means a person or agency that provides services
11 to clients pursuant to a contract, service agreement or qualified vendor
12 agreement with the division.

13 39. "State operated service center" means a state owned or leased
14 facility that is operated by the department and that provides temporary
15 residential care and space for child and adult services that include respite
16 care, crisis intervention and diagnostic evaluation.

17 40. "Subaverage general intellectual functioning" means measured
18 intelligence on standardized psychometric instruments of two or more standard
19 deviations below the mean for the tests used.

20 41. "Substantial functional limitation" means a limitation so severe
21 that extraordinary assistance from other people, programs, services or
22 mechanical devices is required to assist the person in performing appropriate
23 major life activities.

24 42. "Supervision" means the process by which the activities of an
25 individual with developmental disabilities are directed, influenced or
26 monitored.

27 Sec. 23. Section 36-591, Arizona Revised Statutes, is amended to read:

28 36-591. Adult developmental homes; child developmental foster
29 homes; secure facilities; licensing; applicability

30 A. An adult developmental home, child developmental foster home or
31 secure facility shall be licensed pursuant to this article.

32 B. Group homes, except for those described in subsection E of this
33 section, shall be licensed for health and safety ~~of the facility~~ by the
34 department of health services pursuant to section 36-132.

35 C. The division shall notify the department of health services of:

36 1. Service providers who enter into contracts with the division for
37 group homes.

38 2. Any violation of health and safety standards observed during
39 monitoring visits.

40 D. The department of health services shall immediately notify the
41 division:

42 1. When a group home license has been denied, suspended or revoked.

43 2. Of any other licensing action taken on a group home by the
44 department of health services.

45 3. Of substantiated complaints regarding health and safety.

1 E. The division shall ensure that state operated residential settings
2 that are owned or leased facilities operated by the division meet the same
3 standards as group homes unless they are certified as intermediate care
4 facilities for ~~the mentally retarded pursuant~~ PERSONS WITH AN INTELLECTUAL
5 DISABILITY PURSUANT to 42 Code of Federal Regulations section 483.400.

6 F. The department shall visit each adult developmental home and child
7 developmental foster home and inspect the premises used for the care of
8 children or vulnerable adults for sanitation, fire and other actual and
9 potential hazards. The department shall take any action it deems necessary
10 to carry out the duties imposed by this section, including the denial of the
11 application for licensure and the suspension or revocation of the home's
12 license.

13 G. An intermediate care facility for ~~the mentally retarded~~ PERSONS
14 WITH AN INTELLECTUAL DISABILITY is not required to be licensed under this
15 section if it is certified pursuant to 42 Code of Federal Regulations section
16 483.400.

17 Sec. 24. Section 36-712, Arizona Revised Statutes, is amended to read:
18 36-712. Administration by the department

19 The department shall:

20 1. Own and control all personal property or interest ~~therein which~~ IN
21 THAT PROPERTY THAT is devoted and used by the tuberculosis control officer
22 for purposes of this article.

23 2. Be the official custodian of all files and records ~~which~~ THAT
24 belong to or were kept at the Arizona state sanatorium ~~prior to~~ BEFORE the
25 sanatorium ~~being~~ WAS converted to a hospital for ~~crippled~~ children WITH A
26 PHYSICAL DISABILITY.

27 3. Be the official state agency to receive for deposit in an
28 appropriate account of the public health fund and administer and expend any
29 funds granted, contributed or made available by the federal government,
30 appropriated by the state or received from other sources for the treatment,
31 prevention or control of tuberculosis. Such funds are subject to ~~the~~
32 ~~provisions of~~ title 35, chapter 1, article 4, ~~and~~ and periodic review by the
33 joint legislative budget committee.

34 Sec. 25. Section 36-2936, Arizona Revised Statutes, is amended to
35 read:

36 36-2936. Preadmission screening programs; functional tests;
37 screening review

38 A. The director shall adopt rules establishing a uniform statewide
39 preadmission screening program to determine if a person who has met the
40 eligibility criteria prescribed in section 36-2934 is eligible for
41 institutional services pursuant to this article. To be eligible for
42 institutional services or home and community based services as defined in
43 section 36-2931, a person shall have a nonpsychiatric medical condition or
44 have a developmental disability as defined in section 36-551 that, by itself
45 or in combination with other medical conditions, necessitates the level of

1 care ~~which~~ THAT is provided in a nursing facility or intermediate care
2 facility ~~for the mentally retarded~~. These rules shall establish a uniform
3 preadmission screening instrument that assesses the functional, medical,
4 nursing, social and developmental needs of the applicant.

5 B. A person is not eligible to receive home and community based
6 services unless that person has been determined to need institutional
7 services as determined by the preadmission screening instrument pursuant to
8 subsection C of this section. The administration shall establish guidelines
9 for the periodic reassessment of each member.

10 C. Preadmission screening conducted pursuant to subsection B of this
11 section shall be conducted by a registered nurse licensed pursuant to title
12 32, chapter 15 or a social worker. The nurse or social worker shall have a
13 physician licensed pursuant to title 32, chapter 13 or 17 available for
14 consultation and may use the applicant's attending physician's physical
15 assessment form, if appropriate, in assessing needs for long-term care
16 services under this article. A physician who receives a referral from the
17 nurse or social worker may use the physician's medical judgment to determine
18 the medical eligibility of an applicant for the system or the continued
19 medical eligibility of a member or eligible person. In the medical referral,
20 the physician shall use the established combined thresholds for functional
21 ability and medical condition as a guide to determine the risk of
22 institutionalization.

23 D. If a person who is eligible for services pursuant to this article,
24 who is enrolled with a program contractor pursuant to this article and who is
25 enrolled with a program contractor pursuant to section 36-2940 fails the
26 preadmission screening for institutional services pursuant to subsection A of
27 this section at the time of a reassessment, the administration may administer
28 a second preadmission screening designed to measure the functioning level of
29 the person based on rules adopted by the director. If the person meets the
30 established thresholds of the functional preadmission screening, the person
31 is eligible for home and community based services pursuant to section
32 36-2939, subsection A, paragraphs 2, 3 and 4, subsection B, paragraph 2 and
33 subsection C. If a person who is determined eligible pursuant to this
34 subsection is institutionalized pursuant to section 36-2939, including
35 residence in an intermediate care facility ~~for the mentally retarded~~,
36 institution for mental disease, inpatient psychiatric facility or nursing
37 facility, the person has a maximum of ninety days to vacate the institutional
38 setting and relocate to a home and community based setting approved pursuant
39 to section 36-2939.

40 E. If the person is determined not to need services pursuant to this
41 section, the administration shall provide the person with information on
42 other available community services.

43 F. The administration or its designee shall complete the preadmission
44 screening under subsection A of this section within eight days, excluding

1 Saturdays and holidays, and excluding the time period allowed to determine
2 eligibility pursuant to section 36-2934.

3 G. If a provider who contracts with the administration pursuant to
4 section 36-2904, subsection A is dissatisfied with any action or decision of
5 the administration regarding the eligibility of a person for the system as
6 prescribed in this article, that provider may file a grievance in accordance
7 with the provider grievance procedure prescribed in section 36-2932,
8 subsection I, paragraph 1. If the director determines pursuant to the
9 grievance process that the person should have been determined eligible
10 pursuant to section 36-2933, the director may reimburse the provider for the
11 net cost of services provided pursuant to this article after the cumulative
12 time periods allowed pursuant to section 36-2934 and this section.

13 H. In addition to those persons seeking services pursuant to this
14 article, the preadmission screening conducted pursuant to this section shall
15 be made available to all other persons applying for admission to a nursing
16 care institution. The cost of preadmission screenings conducted by the
17 administration pursuant to this subsection shall be borne by the state. The
18 administration shall provide nursing care institutions and the general public
19 on request with detailed information about the preadmission screening program
20 and booklets that describe in clear and simple language the availability of
21 services and benefits from the system. The booklet shall:

22 1. Explain the availability of preadmission screening that will assess
23 the functional, medical, nursing and social needs of the patient and make
24 recommendations on services ~~which~~ THAT meet the patient's needs as identified
25 by the preadmission screening assessment.

26 2. Describe the availability of public and private services
27 appropriate to meet the patient's needs in institutions and alternatives to
28 institutions.

29 3. Explain financial eligibility standards for the Arizona long-term
30 care system and its effect on separate and community property.

31 I. In addition to the preadmission screening program established in
32 this section, the administration shall implement the preadmission screening
33 program as set forth in section 1919 of the social security act. For persons
34 applying for admission to a title XIX certified nursing care institution, an
35 initial level I preadmission screening shall be conducted by the
36 administration on all nursing care institution applicants who are applying
37 for eligibility pursuant to section 36-2933 and by the nursing care
38 institution on all other nursing care institution applicants. The
39 administration shall develop a uniform identification screening instrument,
40 which shall be used by the nursing care institution and the administration in
41 conducting the initial level I screens. If the identification screen
42 indicates the applicant may be mentally ill, the applicant shall be referred
43 to the department of health services, which shall conduct the level II
44 preadmission screening review using a level II screening instrument developed
45 by the department of health services. If the identification screen indicates

1 the applicant may ~~be mentally retarded~~ HAVE AN INTELLECTUAL DISABILITY, the
2 applicant shall be referred to the department, which shall conduct the level
3 II preadmission screening review using a level II screening instrument
4 developed by the department.

5 J. Within ten working days a nursing care institution shall notify the
6 department of health services for a person who is mentally ill or the
7 department of economic security for a person with developmental disabilities
8 about any significant change that occurs in the physical or mental condition
9 of a member who is residing in the nursing care institution. The department
10 of health services or the department of economic security shall conduct a
11 subsequent level II screening review of the member within the time frame
12 required by the administration after the notification by the nursing care
13 institution.

14 Sec. 26. Section 36-2939, Arizona Revised Statutes, is amended to
15 read:

16 36-2939. Long-term care system services

17 A. The following services shall be provided by the program contractors
18 to members determined to need institutional services pursuant to this
19 article:

20 1. Nursing facility services other than services in an institution for
21 tuberculosis or mental disease.

22 2. Notwithstanding any other law, behavioral health services if these
23 services are not duplicative of long-term care services provided as of
24 January 30, 1993 under this subsection and are authorized by the program
25 contractor through the long-term care case management system. If the
26 administration is the program contractor, the administration may authorize
27 these services.

28 3. Hospice services. For the purposes of this paragraph, "hospice"
29 means a program of palliative and supportive care for terminally ill members
30 and their families or caregivers.

31 4. Case management services as provided in section 36-2938.

32 5. Health and medical services as provided in section 36-2907.

33 B. In addition to the services prescribed in subsection A of this
34 section, the department, as a program contractor, shall provide the following
35 services if appropriate to members who are defined as developmentally
36 disabled pursuant to section 36-551 and are determined to need institutional
37 services pursuant to this article:

38 1. Intermediate care facility ~~for mental retardation~~ services for a
39 member who has a developmental disability as defined in section 36-551. For
40 purposes of this article, such A facility shall meet all federally approved
41 standards and may only include the Arizona training program facilities, a
42 state owned and operated service center, state owned or operated community
43 residential settings or existing licensed facilities operated by this state
44 or under contract with the department on or before July 1, 1988.

1 2. Home and community based services ~~which~~ THAT may be provided in a
2 member's home or an alternative residential setting as prescribed in section
3 36-591 or other behavioral health alternative residential facilities licensed
4 by the department of health services and approved by the director of the
5 Arizona health care cost containment system administration and ~~which~~ THAT may
6 include:

7 (a) Home health, which means the provision of nursing services or home
8 health aide services or medical supplies, equipment and appliances, which are
9 provided on a part-time or intermittent basis by a licensed home health
10 agency within a member's residence based on a physician's orders and in
11 accordance with federal law. Physical therapy, occupational therapy, or
12 speech and audiology services provided by a home health agency may be
13 provided in accordance with federal law. ~~Beginning on July 1, 1998,~~ Home
14 health agencies shall comply with federal bonding requirements in a manner
15 prescribed by the administration.

16 (b) Home health aide, which means a service that provides intermittent
17 health maintenance, continued treatment or monitoring of a health condition
18 and supportive care for activities of daily living provided within a member's
19 residence.

20 (c) Homemaker, which means a service that provides assistance in the
21 performance of activities related to household maintenance within a member's
22 residence.

23 (d) Personal care, which means a service that provides assistance to
24 meet essential physical needs within a member's residence.

25 (e) Developmentally disabled day care, which means a service that
26 provides planned care supervision and activities, personal care, activities
27 of daily living skills training and habilitation services in a group setting
28 during a portion of a continuous twenty-four hour period.

29 (f) Habilitation, which means the provision of physical therapy,
30 occupational therapy, speech or audiology services or training in independent
31 living, special developmental skills, sensory-motor development, behavior
32 intervention, and orientation and mobility in accordance with federal law.

33 (g) Respite care, which means a service that provides short-term care
34 and supervision available on a twenty-four hour basis.

35 (h) Transportation, which means a service that provides or assists in
36 obtaining transportation for the member.

37 (i) Other services or licensed or certified settings approved by the
38 director.

39 C. In addition to services prescribed in subsection A of this section,
40 home and community based services may be provided in a member's home, in an
41 adult foster care home as prescribed in section 36-401, in an assisted living
42 home or assisted living center as defined in section 36-401 or in a level one
43 or level two behavioral health alternative residential facility approved by
44 the director by program contractors to all members who are not defined as
45 developmentally disabled pursuant to section 36-551 and are determined to

1 need institutional services pursuant to this article. Members residing in an
2 assisted living center must be provided the choice of single occupancy. The
3 director may also approve other licensed residential facilities as
4 appropriate on a case by case basis for traumatic brain injured members.
5 Home and community based services may include the following:

6 1. Home health, which means the provision of nursing services or home
7 health aide services or medical supplies, equipment and appliances, which are
8 provided on a part-time or intermittent basis by a licensed home health
9 agency within a member's residence based on a physician's orders and in
10 accordance with federal law. Physical therapy, occupational therapy, or
11 speech and audiology services provided by a home health agency may be
12 provided in accordance with federal law. ~~Beginning on July 1, 1998,~~ Home
13 health agencies shall comply with federal bonding requirements in a manner
14 prescribed by the administration.

15 2. Home health aide, which means a service that provides intermittent
16 health maintenance, continued treatment or monitoring of a health condition
17 and supportive care for activities of daily living provided within a member's
18 residence.

19 3. Homemaker, which means a service that provides assistance in the
20 performance of activities related to household maintenance within a member's
21 residence.

22 4. Personal care, which means a service that provides assistance to
23 meet essential physical needs within a member's residence.

24 5. Adult day health, which means a service that provides planned care
25 supervision and activities, personal care, personal living skills training,
26 meals and health monitoring in a group setting during a portion of a
27 continuous twenty-four hour period. Adult day health may also include
28 preventive, therapeutic and restorative health related services that do not
29 include behavioral health services.

30 6. Habilitation, which means the provision of physical therapy,
31 occupational therapy, speech or audiology services or training in independent
32 living, special developmental skills, sensory-motor development, behavior
33 intervention, and orientation and mobility in accordance with federal law.

34 7. Respite care, which means a service that provides short-term care
35 and supervision available on a twenty-four hour basis.

36 8. Transportation, which means a service that provides or assists in
37 obtaining transportation for the member.

38 9. Home delivered meals, which means a service that provides for a
39 nutritious meal containing at least one-third of the recommended dietary
40 allowance for an individual and which is delivered to the member's residence.

41 10. Other services or licensed or certified settings approved by the
42 director.

43 D. The amount of money expended by program contractors on home and
44 community based services pursuant to subsection C of this section shall be
45 limited by the director in accordance with the federal monies made available

1 to this state for home and community based services pursuant to subsection C
2 of this section. The director shall establish methods for the allocation of
3 monies for home and community based services to program contractors and shall
4 monitor expenditures on home and community based services by program
5 contractors.

6 E. Notwithstanding subsections A, B, C and F of this section, no
7 service may be provided that does not qualify for federal monies available
8 under title XIX of the social security act or the section 1115 waiver.

9 F. In addition to services provided pursuant to subsections A, B and C
10 of this section, the director may implement a demonstration project to
11 provide home and community based services to special populations, including
12 disabled persons who are eighteen years of age or younger, medically fragile,
13 reside at home and would be eligible for supplemental security income for the
14 aged, blind or disabled or the state supplemental payment program, except for
15 the amount of their parent's income or resources. In implementing this
16 project, the director may provide for parental contributions for the care of
17 their child.

18 G. Subject to section 36-562, the administration by rule shall
19 prescribe a deductible schedule for programs provided to members who are
20 eligible pursuant to subsection B of this section, except that the
21 administration shall implement a deductible based on family income. In
22 determining deductible amounts and whether a family is required to have
23 deductibles, the department shall use adjusted gross income. Families whose
24 adjusted gross income is at least four hundred per cent and less than or
25 equal to five hundred per cent of the federal poverty guidelines shall have a
26 deductible of two per cent of adjusted gross income. Families whose adjusted
27 gross income is more than five hundred per cent of adjusted gross income
28 shall have a deductible of four per cent of adjusted gross income. Only
29 families whose children are under eighteen years of age and who are members
30 who are eligible pursuant to subsection B of this section may be required to
31 have a deductible for services. For the purposes of this subsection,
32 "deductible" means an amount a family, whose children are under eighteen
33 years of age and who are members who are eligible pursuant to subsection B of
34 this section, pays for services, other than departmental case management and
35 acute care services, before the department will pay for services other than
36 departmental case management and acute care services.

37 Sec. 27. Section 41-173, Arizona Revised Statutes, is amended to read:
38 41-173. Special olympics tax refund fund

39 A. The special olympics tax refund fund is established consisting of
40 contributions to the special olympics Arizona as a corporation from income
41 tax refunds collected pursuant to section 43-614, other unrestricted private
42 gifts and grants and investment earnings. No public monies may be
43 appropriated to or designated for this fund.

1 B. The fund shall be administered by the department of revenue. On
2 notice from the director, the state treasurer shall invest and divest monies
3 in the fund as provided by section 35-313, and monies earned from investment
4 shall be credited to the fund.

5 C. Before December 31 each year the department of revenue shall
6 determine the cost of administering the special olympics income tax refund
7 checkoff under section 43-614 and this section and shall deduct this amount
8 from monies otherwise distributable to the special olympics Arizona as a
9 corporation. The deducted monies shall be deposited, pursuant to sections
10 35-146 and 35-147, in the state general fund. If the amount to be deducted
11 for administrative cost exceeds the amount distributable, the excess
12 deduction shall be carried forward as a liability to the special olympics
13 Arizona as a corporation until paid. On May 15 and October 15 each year the
14 department of revenue shall distribute all monies in the fund not necessary
15 for administrative costs to the department of economic security to be used
16 only to contract with the special olympics Arizona as a corporation for
17 delivery of those services essential to programs of the special olympics
18 Arizona as a corporation or its successor for the citizens of Arizona with
19 ~~mental-retardation~~ INTELLECTUAL DISABILITIES, including coordination and
20 development of such programs within this state.

21 D. Monies contributed or accruing to the fund are not state revenues
22 for purposes of any constitutional limitation or prohibition and are exempt
23 from lapsing under section 35-190.

24 Sec. 28. Section 41-1954, Arizona Revised Statutes, is amended to
25 read:

26 41-1954. Powers and duties

27 A. In addition to the powers and duties of the agencies listed in
28 section 41-1953, subsection E, the department shall:

29 1. Administer the following services:

30 (a) Employment services, which shall include manpower programs and
31 work training, field operations, technical services, unemployment
32 compensation, community work and training and other related functions in
33 furtherance of programs under the social security act, as amended, the
34 Wagner-Peyser act, as amended, the federal unemployment tax act, as amended,
35 33 United States Code, the family support act of 1988 (P.L. 100-485) and
36 other related federal acts and titles.

37 (b) Individual and family services, which shall include a section on
38 aging, services to children, youth and adults and other related functions in
39 furtherance of social service programs under the social security act, as
40 amended, title IV, grants to states for aid and services to needy families
41 with children and for child-welfare services, title XX, grants to states for
42 services, the older Americans act, as amended, the family support act of 1988
43 (P.L. 100-485) and other related federal acts and titles.

1 (c) Income maintenance services, which shall include categorical
2 assistance programs, special services unit, child support collection
3 services, establishment of paternity services, maintenance and operation of a
4 state case registry of child support orders, a state directory of new hires,
5 a support payment clearinghouse and other related functions in furtherance of
6 programs under the social security act, title IV, grants to states for aid
7 and services to needy families with children and for child-welfare services,
8 title XX, grants to states for services, as amended, and other related
9 federal acts and titles.

10 (d) Rehabilitation services, which shall include vocational
11 rehabilitation services and sections for the blind and visually impaired,
12 communication disorders, correctional rehabilitation and other related
13 functions in furtherance of programs under the vocational rehabilitation act,
14 as amended, the Randolph-Sheppard act, as amended, and other related federal
15 acts and titles.

16 (e) Administrative services, which shall include the coordination of
17 program evaluation and research, interagency program coordination and
18 in-service training, planning, grants, development and management,
19 information, legislative liaison, budget, licensing and other related
20 functions.

21 (f) Manpower planning, which shall include a state manpower planning
22 council for the purposes of the federal-state-local cooperative manpower
23 planning system and other related functions in furtherance of programs under
24 the comprehensive employment and training act of 1973, as amended, and other
25 related federal acts and titles.

26 (g) Economic opportunity services, which shall include the furtherance
27 of programs prescribed under the economic opportunity act of 1967, as
28 amended, and other related federal acts and titles.

29 (h) ~~Mental-retardation~~ INTELLECTUAL DISABILITY and other developmental
30 disability programs, with emphasis on referral and purchase of services. The
31 program shall include educational, rehabilitation, treatment and training
32 services and other related functions in furtherance of programs under the
33 developmental disabilities services and facilities construction act, Public
34 Law 91-517, and other related federal acts and titles.

35 (i) Nonmedical home and community based services and functions,
36 including department designated case management, housekeeping services, chore
37 services, home health aid, personal care, visiting nurse services, adult day
38 care or adult day health, respite sitter care, attendant care, home delivered
39 meals and other related services and functions.

40 2. Provide a coordinated system of initial intake, screening,
41 evaluation and referral of persons served by the department.

42 3. Adopt rules it deems necessary or desirable to further the
43 objectives and programs of the department.

44 4. Formulate policies, plans and programs to effectuate the missions
45 and purposes of the department.

- 1 5. Employ, determine the conditions of employment and prescribe the
2 duties and powers of administrative, professional, technical, secretarial,
3 clerical and other persons as may be necessary in the performance of its
4 duties, contract for the services of outside advisors, consultants and aides
5 as may be reasonably necessary and reimburse department volunteers,
6 designated by the director, for expenses in transporting clients of the
7 department on official business.
- 8 6. Make contracts and incur obligations within the general scope of
9 its activities and operations subject to the availability of funds.
- 10 7. Contract with or assist other departments, agencies and
11 institutions of the state, local and federal governments in the furtherance
12 of its purposes, objectives and programs.
- 13 8. Be designated as the single state agency for the purposes of
14 administering and in furtherance of each federally supported state plan.
- 15 9. Accept and disburse grants, matching funds and direct payments from
16 public or private agencies for the conduct of programs ~~which~~ THAT are
17 consistent with the overall purposes and objectives of the department.
- 18 10. Provide information and advice on request by local, state and
19 federal agencies and by private citizens, business enterprises and community
20 organizations on matters within the scope of its duties subject to the
21 departmental rules on the confidentiality of information.
- 22 11. Establish and maintain separate financial accounts as required by
23 federal law or regulations.
- 24 12. Advise ~~with~~ and make recommendations to the governor and the
25 legislature on all matters concerning its objectives.
- 26 13. Have an official seal ~~which~~ THAT shall be judicially noticed.
- 27 14. Annually estimate the current year's population of each county,
28 city and town in this state, using the periodic census conducted by the
29 United States department of commerce, or its successor agency, as the basis
30 for such estimates and deliver such estimates to the economic estimates
31 commission before December 15.
- 32 15. Estimate the population of any newly annexed areas of a political
33 subdivision as of July 1 of the fiscal year in which the annexation occurs
34 and deliver such estimates as promptly as is feasible after the annexation
35 occurs to the economic estimates commission.
- 36 16. Establish and maintain a statewide program of services for persons
37 who are both hearing impaired and visually impaired and coordinate
38 appropriate services with other agencies and organizations to avoid
39 duplication of these services and to increase efficiency. The department of
40 economic security shall enter into agreements for the utilization of the
41 personnel and facilities of the department of economic security, the
42 department of health services and other appropriate agencies and
43 organizations in providing these services.
- 44 17. Establish and charge fees for deposit in the department of economic
45 security prelayoff assistance services fund to employers who voluntarily

1 participate in the services of the department ~~which~~ THAT provide job service
2 and retraining for persons who have been or are about to be laid off from
3 employment. The department shall charge only those fees necessary to cover
4 the costs of administering the job service and retraining services.

5 18. Establish a focal point for addressing the issue of hunger in
6 Arizona and provide coordination and assistance to public and private
7 nonprofit organizations ~~which~~ THAT aid hungry persons and families throughout
8 this state. Specifically such activities shall include:

9 (a) Collecting and disseminating information regarding the location
10 and availability of surplus food for distribution to needy persons, the
11 availability of surplus food for donation to charity food bank organizations,
12 and the needs of charity food bank organizations for surplus food.

13 (b) Coordinating the activities of federal, state, local and private
14 nonprofit organizations that provide food assistance to the hungry.

15 (c) Accepting and disbursing federal monies, and any state monies
16 appropriated by the legislature, to private nonprofit organizations in
17 support of the collection, receipt, handling, storage and distribution of
18 donated or surplus food items.

19 (d) Providing technical assistance to private nonprofit organizations
20 that provide or intend to provide services to the hungry.

21 (e) Developing a state plan on hunger ~~which~~ THAT, at a minimum,
22 identifies the magnitude of the hunger problem in this state, the
23 characteristics of the population in need, the availability and location of
24 charity food banks and the potential sources of surplus food, assesses the
25 effectiveness of the donated food collection and distribution network and
26 other efforts to alleviate the hunger problem, and recommends goals and
27 strategies to improve the status of the hungry. The state plan on hunger
28 shall be incorporated into the department's state comprehensive plan prepared
29 pursuant to section 41-1956.

30 (f) Establishing a special purpose advisory council on hunger pursuant
31 to section 41-1981.

32 19. Establish an office to address the issue of homelessness and to
33 provide coordination and assistance to public and private nonprofit
34 organizations that prevent homelessness or aid homeless individuals and
35 families throughout this state. These activities shall include:

36 (a) Promoting and participating in planning for the prevention of
37 homelessness and the development of services to homeless persons.

38 (b) Identifying and developing strategies for resolving barriers in
39 state agency service delivery systems that inhibit the provision and
40 coordination of appropriate services to homeless persons and persons in
41 danger of being homeless.

42 (c) Assisting in the coordination of the activities of federal, state
43 and local governments and the private sector that prevent homelessness or
44 provide assistance to homeless people.

1 (d) Assisting in obtaining and increasing funding from all appropriate
2 sources to prevent homelessness or assist in alleviating homelessness.

3 (e) Serving as a clearinghouse on information regarding funding and
4 services available to assist homeless persons and persons in danger of being
5 homeless.

6 (f) Developing an annual state comprehensive homeless assistance plan
7 to prevent and alleviate homelessness.

8 (g) Submitting an annual report ~~by January 1, 1992 and each year~~
9 ~~thereafter~~ to the governor, the president of the senate and the speaker of
10 the house of representatives on the status of homelessness and efforts to
11 prevent and alleviate homelessness.

12 20. Cooperate with the Arizona-Mexico commission in the governor's
13 office and with researchers at universities in this state to collect data and
14 conduct projects in the United States and Mexico on issues that are within
15 the scope of the department's duties and that relate to quality of life,
16 trade and economic development in this state in a manner that will help the
17 Arizona-Mexico commission to assess and enhance the economic competitiveness
18 of this state and of the Arizona-Mexico region.

19 B. If the department has responsibility for the care, custody or
20 control of a child or is paying the cost of care for a child, it may serve as
21 representative payee to receive and administer social security and veterans
22 administration benefits and other benefits payable to such child.
23 Notwithstanding any law to the contrary, the department:

24 1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies
25 as it receives to be retained separate and apart from the state general fund
26 on the books of the department of administration.

27 2. May use such monies to defray the cost of care and services
28 expended by the department for the benefit, welfare and best interests of the
29 child and invest any of the monies that the director determines are not
30 necessary for immediate use.

31 3. Shall maintain separate records to account for the receipt,
32 investment and disposition of funds received for each child.

33 4. On termination of the department's responsibility for the child,
34 shall release any funds remaining to the child's credit in accordance with
35 the requirements of the funding source or in the absence of such requirements
36 shall release the remaining funds to:

37 (a) The child, if the child is at least eighteen years of age or is
38 emancipated.

39 (b) The person responsible for the child if the child is a minor and
40 not emancipated.

41 C. Subsection B of this section does not pertain to benefits payable
42 to or for the benefit of a child receiving services under title 36.

43 D. Volunteers reimbursed for expenses pursuant to subsection A,
44 paragraph 5 of this section are not eligible for workers' compensation under
45 title 23, chapter 6.

1 E. In implementing the temporary assistance for needy families program
2 pursuant to Public Law 104-193, the department shall provide for cash
3 assistance to two parent families if both parents are able to work only ~~upon~~
4 **ON** documented participation by both parents in work activities described in
5 title 46, chapter 2, article 5, except that payments may be made to families
6 who do not meet the participation requirements if:

7 1. It is determined on an individual case basis that they have
8 emergency needs.

9 2. The family is determined to be eligible for diversion from
10 long-term cash assistance pursuant to title 46, chapter 2, article 5.

11 F. The department shall provide for cash assistance under temporary
12 assistance for needy families pursuant to Public Law 104-193 to two parent
13 families for no longer than six months if both parents are able to work,
14 except that additional assistance may be provided on an individual case basis
15 to families with extraordinary circumstances. The department shall establish
16 by rule the criteria to be used to determine eligibility for additional cash
17 assistance.

18 G. The department shall adopt the following discount medical payment
19 system ~~no later than October 1, 1993~~ for persons who the department
20 determines are eligible and who are receiving rehabilitation services
21 pursuant to subsection A, paragraph 1, subdivision (d) of this section:

22 1. For inpatient hospital admissions and outpatient hospital services
23 the department shall reimburse a hospital according to the tiered per diem
24 rates and outpatient cost-to-charge ratios established by the Arizona health
25 care cost containment system **ADMINISTRATION** pursuant to section 36-2903.01,
26 subsection H.

27 2. The department's liability for a hospital claim under this
28 subsection is subject to availability of funds.

29 3. A hospital bill is considered received for purposes of paragraph 5
30 of this subsection ~~upon~~ **ON** initial receipt of the legible, error-free claim
31 form by the department if the claim includes the following error-free
32 documentation in legible form:

- 33 (a) An admission face sheet.
- 34 (b) An itemized statement.
- 35 (c) An admission history and physical.
- 36 (d) A discharge summary or an interim summary if the claim is split.
- 37 (e) An emergency record, if admission was through the emergency room.
- 38 (f) Operative reports, if applicable.
- 39 (g) A labor and delivery room report, if applicable.

40 4. The department shall require that the hospital pursue other
41 third-party payors before submitting a claim to the department. Payment
42 received by a hospital from the department pursuant to this subsection is
43 considered payment by the department of the department's liability for the
44 hospital bill. A hospital may collect any unpaid portion of its bill from

1 other third party payors or in situations covered by title 33, chapter 7,
2 article 3.

3 5. For inpatient hospital admissions and outpatient hospital services
4 rendered on and after October 1, 1997, if the department receives the claim
5 directly from the hospital, the department shall pay a hospital's rate
6 established according to this section subject to the following:

7 (a) If the hospital's bill is paid within thirty days of the date the
8 bill was received, the department shall pay ninety-nine per cent of the rate.

9 (b) If the hospital's bill is paid after thirty days but within sixty
10 days of the date the bill was received, the department shall pay one hundred
11 per cent of the rate.

12 (c) If the hospital's bill is paid any time after sixty days of the
13 date the bill was received, the department shall pay one hundred per cent of
14 the rate plus a fee of one per cent per month for each month or portion of a
15 month following the sixtieth day of receipt of the bill until the date of
16 payment.

17 6. For medical services other than those for which a rate has been
18 established pursuant to section 36-2903.01, subsection H, the department
19 shall pay according to the Arizona health care cost containment system capped
20 fee-for-service schedule adopted pursuant to section 36-2904, subsection ~~L~~ K
21 or any other established fee schedule the department determines reasonable.

22 H. The department shall not pay claims for services pursuant to this
23 section that are submitted more than nine months after the date of service
24 for which the payment is claimed.

25 I. To assist in the location of persons or assets for the purpose of
26 establishing paternity, establishing, modifying or enforcing child support
27 obligations and other related functions, the department has access, including
28 automated access if the records are maintained in an automated database, to
29 records of state and local government agencies, including:

30 1. Vital statistics, including records of marriage, birth and divorce.

31 2. State and local tax and revenue records, including information on
32 residence address, employer, income and assets.

33 3. Records concerning real and titled personal property.

34 4. Records of occupational and professional licenses.

35 5. Records concerning the ownership and control of corporations,
36 partnerships and other business entities.

37 6. Employment security records.

38 7. Records of agencies administering public assistance programs.

39 8. Records of the motor vehicle division of the department of
40 transportation.

41 9. Records of the state department of corrections.

42 10. Any system used by a state agency to locate a person for motor
43 vehicle or law enforcement purposes, including access to information
44 contained in the Arizona criminal justice information system.

1 J. Notwithstanding subsection I of this section, the department or its
2 agents shall not seek or obtain information on the assets of an individual
3 unless paternity is presumed pursuant to section 25-814 or established.

4 K. Access to records of the department of revenue pursuant to
5 subsection I of this section shall be provided in accordance with section
6 42-2003.

7 L. The department also has access to certain records held by private
8 entities with respect to child support obligors or obligees, or individuals
9 against whom such an obligation is sought. The information shall be obtained
10 as follows:

11 1. In response to a child support subpoena issued by the department
12 pursuant to section 25-520, the names and addresses of these persons and the
13 names and addresses of the employers of these persons, as appearing in
14 customer records of public utilities and cable television companies.

15 2. Information on these persons held by financial institutions.

16 M. Pursuant to department rules, the department may compromise or
17 settle any support debt owed to the department if the director or an
18 authorized agent determines that it is in the best interest of the state and
19 after considering each of the following factors:

20 1. The obligor's financial resources.

21 2. The cost of further enforcement action.

22 3. The likelihood of recovering the full amount of the debt.

23 N. Notwithstanding any law to the contrary, a state or local
24 governmental agency or private entity is not subject to civil liability for
25 the disclosure of information made in good faith to the department pursuant
26 to this section.

27 Sec. 29. Section 41-1981, Arizona Revised Statutes, is amended to
28 read:

29 41-1981. Economic security council; special purpose councils

30 A. In order to form a council advisory to the governor and the
31 department and representative of the needs of the people of this state and
32 with respect to manpower, economic security, social welfare and vocational
33 rehabilitation, there is established an economic security council. The
34 economic security council shall also serve the requirements of the
35 Wagner-Peyser act, as amended, the social security act, as amended, the
36 vocational rehabilitation act, as amended, the manpower development and
37 training act, as amended, the vocational education act, as amended, the
38 economic opportunity act, as amended, and future federal and state
39 legislation relating to economic security, for planning, funding or
40 implementing programs related to such acts.

41 B. The governor shall appoint the members of the council. Membership
42 shall correspond to pertinent federal regulations concerning advisory and
43 planning councils or committees. The governor shall annually select the
44 council chairman from the membership of the council.

1 C. The council should have eighteen members representing the public
2 and relevant professional, business, manufacturing, labor and educational
3 organizations.

4 D. Council members serve for a term of three years.

5 E. The director shall establish any special purpose councils as are
6 required by state or federal law, rules or regulations or determined to be
7 essential to the public's interest. ~~Such~~ THESE councils shall include
8 ~~a mental retardation~~ AN INTELLECTUAL DISABILITIES advisory council, a
9 rehabilitation advisory council, an income maintenance advisory council, an
10 apprenticeship advisory council, ~~and~~ an Indian affairs advisory council and
11 an advisory council on hunger. Membership qualifications shall be in
12 accordance with the appropriate law, rule or regulation. The director shall
13 appoint, with the approval of the governor, the members of each council after
14 consultation with members of the economic security council.

15 F. Appointment to fill a vacancy on the council or any special purpose
16 council resulting from other than expiration of term shall be for the
17 unexpired portion of a term only.

18 G. The department shall provide secretarial and staff support services
19 to the councils.

20 H. The members of the economic security council are eligible to
21 receive compensation pursuant to section 38-611. The members of any special
22 purpose council are not eligible to receive compensation but are eligible for
23 reimbursement of expenses pursuant to title 38, chapter 4, article 2.

24 Sec. 30. Effect of change in terminology

25 This act makes conforming changes to the Arizona Revised Statutes to
26 replace the term "mental retardation" and does not affect current coverage,
27 eligibility, rights or responsibilities as prescribed by law.

28 Sec. 31. Effective date

29 Section 11-251, Arizona Revised Statutes, as amended by Laws 2010,
30 chapter 238, section 1 and this act, is effective from and after September
31 30, 2011.