

REFERENCE TITLE: **persons with disabilities**

State of Arizona
House of Representatives
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HB 2667

Introduced by

Representatives Mach, Alston, Cardenas, Contreras, Gonzales, Meyer,
Miranda: Brophy McGee, Carter, Clinco, Escamilla, Goodale, Larkin, Lesko,
McCune Davis, Montenegro, Orr, Otondo, Saldate, Tobin, Wheeler, Senator
Tovar

AN ACT

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

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 6-433. Payment on disability or death of holder in his own
5 right of account

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

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

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

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

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

23 6-636. Insurance securing loan; cancellation; notice

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

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

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

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

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

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

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

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

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

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

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

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

- 4 1. The consumer's property insurance is about to expire.
- 5 2. The consumer may obtain property insurance from any source chosen
6 by the consumer subject to the licensee's right to reasonably reject the
7 insurer chosen by the consumer by providing written notice to the consumer of
8 those reasons for rejection.
- 9 3. The term, coverage and premium for the renewal of property
10 insurance.
- 11 4. The property insurance will be renewed on expiration unless the
12 consumer provides the licensee before the expiration date with evidence that
13 the consumer has obtained other property insurance.

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

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

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

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

33 8-242. Evaluation and disposition of a child with
34 developmental disabilities

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

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

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

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

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

9 In this article, unless the context otherwise requires:

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

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

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

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

25 (b) Psychological or psychiatric testing, if indicated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) Emergency or crisis behavioral health services.

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

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

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

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

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

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

41 8-272. Psychiatric acute care services; outpatient and
42 inpatient assessments; definition

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

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

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

- 8 1. Provided with outpatient treatment services.
- 9 2. Admitted to a psychiatric acute care facility for inpatient
10 assessment or inpatient psychiatric acute care services.
- 11 3. Provided with residential treatment services.
- 12 4. Discharged to the entity without further psychological or
13 psychiatric services because the child does not suffer from a mental
14 disorder, is not a danger to self or others or is not ~~persistently or acutely~~
15 ~~disabled or gravely disabled~~ A CHILD WITH A PERSISTENT OR ACUTE DISABILITY OR
16 GRAVE DISABILITY.

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

- 22 1. Admitted to a psychiatric acute care facility for inpatient
23 psychiatric acute care services.
- 24 2. Discharged to an entity and provided with outpatient treatment
25 services.
- 26 3. Provided with residential treatment services.
- 27 4. Discharged to the entity without further psychological or
28 psychiatric services because the child does not suffer from a mental
29 disorder, is not a danger to self or others or is not ~~persistently or acutely~~
30 ~~disabled or gravely disabled~~ A CHILD WITH A PERSISTENT OR ACUTE DISABILITY OR
31 GRAVE DISABILITY.

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

- 36 1. The name and address of the inpatient assessment facility.
- 37 2. The name of the psychologist, psychiatrist or physician who is
38 likely to perform the inpatient assessment.
- 39 3. The date and time the child was admitted to the inpatient
40 assessment facility.
- 41 4. A short statement explaining why the child needs an inpatient
42 assessment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 3. A projected discharge date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 1. Found to be dependent or temporarily subject to court jurisdiction
- 2 pending an adjudication of a dependency petition.
- 3 2. In the temporary custody of child protective services pursuant to
- 4 section 8-821.
- 5 3. Detained in a juvenile court detention facility.
- 6 4. Committed to the department of juvenile corrections.
- 7 Sec. 6. Section 8-503, Arizona Revised Statutes, is amended to read:
- 8 8-503. Powers and duties
- 9 A. The division shall:
- 10 1. Exercise supervision over all child welfare agencies.
- 11 2. Advise and cooperate with the governing boards of all child welfare
- 12 agencies.
- 13 3. Assist the staffs of all child welfare agencies by giving advice on
- 14 progressive methods and procedures of child care and improvement of services.
- 15 4. Establish rules, regulations, and standards for:
- 16 (a) Licensing of child welfare agencies.
- 17 (b) Licensing of foster homes.
- 18 (c) Classifications of foster homes as:
- 19 (i) Receiving foster homes.
- 20 (ii) Regular foster homes.
- 21 (iii) Special classes of foster homes as are needed according to the
- 22 types of problems involved.
- 23 (iv) Group foster homes.
- 24 (d) Certifying each foster home according to one or more of the
- 25 categories prescribed in subdivision (c) of this paragraph.
- 26 (e) Initial and ongoing foster parent training programs.
- 27 (f) The method of approving foster parent training programs.
- 28 (g) Uniform amounts of payment for all foster homes according to
- 29 certification. However, variations in uniform amounts of payments may be
- 30 allowed for foster homes based on consideration of geographical location or
- 31 age or mental or physical condition of a foster child.
- 32 (h) Renewal of licenses of child welfare agencies and foster homes.
- 33 (i) Form and content of investigations, reports and studies concerning
- 34 disposition of children and foster home placement.
- 35 5. Establish a program of counseling and rehabilitation of parents
- 36 whose children have been placed in foster homes.
- 37 6. Establish foster parent training programs or contract with other
- 38 agencies, institutions or groups for the provision of such programs to foster
- 39 parents. Foster parent training programs shall be established in at least
- 40 the following areas:
- 41 (a) Initial and ongoing training as a foster parent for a regular or
- 42 group foster home.
- 43 (b) Initial and ongoing training as a foster parent for a special
- 44 foster home.
- 45 7. Regulate the importation and exportation of children.

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

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

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

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

21 8-514. Placement in foster homes

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

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

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

37 3. The child previously resided in the foster home.

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

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

42 1. With a parent.

43 2. With a grandparent.

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

- 1 4. In licensed family foster care.
- 2 5. In therapeutic foster care.
- 3 6. In a group home.
- 4 7. In a residential treatment facility.
- 5 C. Notwithstanding subsection B of this section, the order for
- 6 placement preference of a native American child is as follows:
- 7 1. With a member of the child's extended family.
- 8 2. In a licensed family foster home approved or specified by the
- 9 child's tribe.
- 10 3. In an Indian foster home licensed or approved by an authorized
- 11 non-Indian licensing authority.
- 12 4. In an institution approved by the Indian tribe or operated by an
- 13 Indian organization that has a program suitable to meet the Indian child's
- 14 needs pursuant to 25 United States Code chapter 21.
- 15 D. At the time of placement there shall be presented to the foster
- 16 parents, by the agency or division placing the child, a written summary of
- 17 known, unprivileged information regarding the child, including but not
- 18 limited to:
- 19 1. Demographic information.
- 20 2. Type of custody and previous placement.
- 21 3. Pertinent family information including but not limited to the names
- 22 of family members who, by court order, may not visit the child.
- 23 4. Known or available medical history including but not limited to:
- 24 (a) Allergies.
- 25 (b) Immunizations.
- 26 (c) Childhood diseases.
- 27 (d) Physical ~~handicaps~~ DISABILITIES.
- 28 (e) Other idiosyncrasies.
- 29 (f) The child's last doctor, if known.
- 30 5. A summary of the child's history of adjudication on acts of
- 31 delinquency, as may be public record and available in the file of the clerk
- 32 of the superior court.
- 33 E. The responsibility of the agency or the division for a child placed
- 34 in a foster home shall be defined in writing and accepted by the person
- 35 receiving the child. The agency or division shall make available to the
- 36 foster parents a method of acquiring emergency information that may be
- 37 necessary to deal with situations that may arise pursuant to their
- 38 responsibilities as foster parents.
- 39 F. Every foster home shall maintain a record of the children received,
- 40 which shall include facts in regard to the children and their care and shall
- 41 be in the form and kept in the manner prescribed by the division.

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

3 8-514.01. Placement of children with developmental disabilities

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

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

15 8-530. Foster parents; rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Sec. 10. Section 8-701, Arizona Revised Statutes, is amended to read:
4 8-701. Healthy families program; administration; consent;
5 access to records

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

11 B. The department shall:

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

14 2. Develop the following program functions:

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

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

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

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

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

33 5. Track program costs.

34 6. Offer parents education on prenatal care.

35 7. Offer participants education on successful marriage.

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

45 C. The goals of the healthy families program include:

- 1 1. Reducing child abuse and neglect.
- 2 2. Promoting child wellness and proper development.
- 3 3. Strengthening family relations.
- 4 4. Promoting family unity.
- 5 5. Reducing dependency on drugs and alcohol.
- 6 D. The healthy families program shall provide the following services
- 7 to program participants:
- 8 1. Informal counseling or emotional support services.
- 9 2. Assistance in developing parenting and coping skills.
- 10 3. Education on the importance of good nutritional habits to improve
- 11 the overall health of their children.
- 12 4. Education on developmental assessments so that early identification
- 13 of any learning disabilities, physical ~~handicaps~~ DISABILITIES or behavioral
- 14 health needs are determined.
- 15 5. Education on the importance of preventative health care and the
- 16 need for screening examinations such as hearing and vision.
- 17 6. Assistance and encouragement to provide age appropriate
- 18 immunizations so that their children are immunized.
- 19 7. Assistance and encouragement to access comprehensive private and
- 20 public preschool and other school readiness programs.
- 21 8. Assistance in applying for private and public financial assistance
- 22 including employment services.
- 23 9. Assistance in accessing other applicable community and public
- 24 services including employment services.
- 25 E. Program participants shall be provided with the Arizona children
- 26 and families resource directory compiled under section 36-698 in order to
- 27 help them answer questions concerning early childhood development.
- 28 F. Program services shall not be provided under this section unless:
- 29 1. Participation in the program is initiated in response to a request
- 30 by the potential program participant.
- 31 2. A verbal explanation of the program is provided to program
- 32 participants, including an explanation of the rights and responsibilities of
- 33 both the participant and the program provider.
- 34 3. The written, informed consent of the program participants is
- 35 received. The consent form shall include at least a clear description of the
- 36 program, including the activities and information to be provided by the
- 37 program during prescheduled home visits, the number of expected home visits,
- 38 the right of program participants to terminate participation in the program
- 39 at any time, any responsibilities of the program participants, a statement
- 40 that a record will be made and maintained of the home visits and may be
- 41 available in future court proceedings and any other information that is
- 42 necessary to convey to the program participants a clear understanding of the
- 43 program.
- 44 G. The initial contact may be in person and at any convenient
- 45 location, except that if the contact occurs at the primary residence of the

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

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

7 I. If any home visits are to be made by program personnel who are
8 required to report suspected abused or neglected children pursuant to title
9 13, chapter 36, the consent form shall also contain a clear and conspicuous
10 statement informing parents that the home visits will be made by a person who
11 is required to report any instances of suspected abuse or neglect of children
12 to child protective services in the department of economic security or its
13 successor.

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

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

28 Sec. 11. Section 8-806, Arizona Revised Statutes, is amended to read:
29 8-806. Voluntary placement; conditions; notice of placement;
30 time limit; rules

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 Sec. 12. Section 11-251, Arizona Revised Statutes, is amended to read:
37 11-251. Powers of board

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

40 1. Supervise the official conduct of all county officers and officers
41 of all districts and other subdivisions of the county charged with assessing,
42 collecting, safekeeping, managing or disbursing the public revenues, see that
43 such officers faithfully perform their duties and direct prosecutions for
44 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 on such terms and
29 for such consideration as the board shall prescribe, any property belonging
30 to the county that the board deems advantageous for the county to sell, or
31 that the board deems unnecessary for use by the county, and shall pay the
32 proceeds thereof into the county treasury for use of the county, except that
33 personal property need not be sold but may be used as a trade-in on the
34 purchase of personal property when the board deems this disposition of the
35 personal property to be in the best interests of the county. When the
36 property for sale is real property, the board shall have such property
37 appraised by a qualified independent fee appraiser who has an office located
38 in this state. The appraiser shall establish a minimum price, which shall
39 not be less than ninety per cent of the appraised value. The notice
40 regarding the sale of real property shall be published in the county where
41 the property is situated and may be published in one or more other counties,
42 and shall contain, among other things, the appraised value, the minimum
43 acceptable sale price, and the common and legal description of the real
44 property. Notwithstanding the requirement for a sale at public auction
45 prescribed in this paragraph, a county, with unanimous consent of the board

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

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

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

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

28 13. Equalize assessments.

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

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

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

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

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

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

43 20. Provide for rebinding county records, or, if necessary, the
44 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, on
32 such terms as may be agreed on by the board and the secretary of the interior
33 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 children with intellectual disabilities and ~~otherwise handicapped~~ children
8 WITH OTHER DISABILITIES who reside within the county and attend a school for
9 ~~the handicapped~~ STUDENTS WITH DISABILITIES in a city or town within such
10 county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 47. Make and enforce ordinances for the protection and disposition of
40 domestic animals subject to inhumane, unhealthful or dangerous conditions or
41 circumstances provided that nothing in this paragraph limits or restricts the
42 authority granted to incorporated cities and towns or counties pursuant to
43 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
44 restrict or limit the authority of the game and fish commission to regulate
45 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 of Yuma and La Paz counties based on the proportionate share of the estimated
2 population in these counties as of July 1, 1982.

3 B. For fiscal year 1994-1995, and for each fiscal year thereafter, the
4 state treasurer shall withhold an amount sufficient to meet the county
5 portion of the nonfederal costs of providing long-term care system services,
6 pursuant to title 36, chapter 29, article 2, excluding services to ~~the~~
7 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, from monies
8 otherwise payable to the county under section 42-5029, subsection D,
9 paragraph 2. This amount and the state portion of the nonfederal costs shall
10 be specified in the annual appropriation for the maintenance and operation of
11 the Arizona health care cost containment system. For fiscal years 1994-1995,
12 1995-1996 and 1996-1997, monies shall be withheld from each county based on
13 the following percentages derived from a state auditor general's certified
14 audit of fiscal year 1987-1988 county long-term care and home health care
15 expenditures, except that amounts withheld shall be adjusted to reflect
16 amounts paid by counties pursuant to section 36-2952:

17	1. Apache:	0.22%
18	2. Cochise:	2.49%
19	3. Coconino:	0.66%
20	4. Gila:	2.56%
21	5. Graham:	0.64%
22	6. Greenlee:	0.34%
23	7. La Paz:	0.34%
24	8. Maricopa:	56.55%
25	9. Mohave:	2.73%
26	10. Navajo:	0.91%
27	11. Pima:	20.55%
28	12. Pinal:	5.09%
29	13. Santa Cruz:	1.05%
30	14. Yavapai:	3.12%
31	15. Yuma:	2.75%

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

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

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

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

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

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

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

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

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

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

25 H. If payments made pursuant to subsection F of this section exceed
26 the amount required to meet the costs incurred by the Arizona health care
27 cost containment system for the hospitalization and medical care of a person
28 who is defined as an eligible person pursuant to section 36-2901, paragraph
29 6, subdivision (a), the director of the Arizona health care cost containment
30 system administration may instruct the state treasurer either to reduce
31 remaining payments to be paid pursuant to this section by a specified amount
32 or to provide to the counties specified amounts from the Arizona health care
33 cost containment system fund.

34 I. The amount of the county contribution to the Arizona health care
35 cost containment system fund established by section 36-2913 shall not exceed
36 thirty-three per cent of the amount that the system administration expended
37 in the county for fiscal year 1983-1984. For the purposes of this
38 subsection, system administration expenditures in a county for fiscal year
39 1983-1984 are the total capitation and fee for service amounts paid by the
40 system administration to providers in a county before February 1, 1986 for
41 services rendered during fiscal year 1983-1984 to persons eligible for the
42 system.

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

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

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

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

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

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

32 O. Notwithstanding any law to the contrary, beginning in fiscal year
33 2005-2006 and in each fiscal year thereafter, the state treasurer shall
34 withhold a total of two million three hundred ninety-five thousand four
35 hundred dollars for the county contribution for the administrative costs of
36 implementing sections 36-2901.01 and 36-2901.04 beginning with the second
37 monthly distribution of transaction privilege tax revenues otherwise
38 distributable after subtracting any amounts withheld for the county long-term
39 care contribution. Beginning in fiscal year 2006-2007, the state treasurer
40 shall adjust the amount withheld according to the annual changes in the GDP
41 price deflator and as calculated by the joint legislative budget committee
42 staff. Beginning in fiscal year 2006-2007, the joint legislative budget
43 committee shall calculate an additional adjustment of the allocation required
44 by this subsection based on changes in the population as reported by the
45 ~~department of economic security~~ OFFICE OF EMPLOYMENT AND POPULATION

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

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

18 P. The state treasurer shall deposit the amounts paid pursuant to
19 subsection 0 of this section in the budget neutrality compliance fund
20 established by section 36-2928.

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

- 29 1. First as applied to the contribution provided for in subsection 0
30 of this section.
- 31 2. Second as applied to the contribution provided for in subsection A
32 of this section or any other contribution for acute care or for the provision
33 of hospitalization and medical care that would otherwise be required.
- 34 3. Third as applied to the contribution provided for in subsection C
35 of this section.

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

- 44 1. First as applied to the contribution provided for in subsection 0
45 of this section.

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

4 S. For the purposes of this section, "net assessed value" includes the
5 values used to determine voluntary contributions collected pursuant to title
6 9, chapter 4, article 3 and title 48, chapter 1, article 8.

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

8 11-301. Discharge of patient capable of self-support;
9 violation; classification

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

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

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

20 11-424.02. Receipt of salary by justices of the peace;
21 affidavit; pending and undetermined causes;
22 violation; classification

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

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

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

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

41 11-1024. Service animals; rights of individuals with
42 disabilities; violation; classification; definitions

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

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

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

- 15 1. The animal poses a direct threat to the health or safety of others.
- 16 2. The animal fundamentally alters the nature of the public place or
17 the goods, services or activities provided.
- 18 3. The animal poses an undue burden.

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

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

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

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

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

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

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

16 J. For the purposes of this section:

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

21 2. "Discriminate" means discriminatory actions prescribed in section
22 41-1492.02 and includes:

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

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

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

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

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

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

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

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

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

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

7 12-128.01. Receipt of salary by judges and commissioners;
8 affidavit; pending and undetermined causes;
9 violation; classification

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

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

23 C. Any person who issues or causes to be issued any check, warrant or
24 payment to a judge or commissioner knowing that, pursuant to this section,
25 such judge or commissioner should not receive his salary is guilty of a class
26 3 misdemeanor.

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

28 12-302. Extension of time for payment of fees and costs; relief
29 from default for nonpayment; deferral or waiver of
30 court fees and costs; definitions

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

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

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

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

43 (a) The temporary assistance for needy families program established by
44 section 403 of title 4 of the social security act as it exists after August
45 21, 1996.

1 (b) The food stamp program (7 United States Code sections 2011 through
2 2029).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 1. Filing fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 M. For the purposes of this section:

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

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

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

3 12-1596. Forms

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

- 7 1. The notice to judgment debtor and request for hearing form.
- 8 2. The answer form.
- 9 3. The instructions to garnishee.

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

- 13 1. An explanation of the judgment debtor's rights and responsibilities
14 relating to the garnishment procedure, including information concerning:
 - 15 (a) Exemption rights.
 - 16 (b) Grounds for objecting to the writ.
 - 17 (c) The objection and hearing procedures.
- 18 2. A form on which the judgment debtor may request a hearing.

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

21 Notice to judgment debtor or defendant
22 (Non-earnings)

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

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

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

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

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

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

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

6 (b) Temporary assistance for needy families.

7 (c) Supplemental security income (SSI).

8 (d) Social security benefits (SSA).

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

11 (f) Certain pension benefits and retirement funds.

12 (g) Workers' compensation benefits.

13 (h) Some insurance proceeds.

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

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

19 (a) Household goods, furniture and appliances.

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

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

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

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

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

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

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

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

3 Request for hearing

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

- 6 _____ 1. The judgment is not valid.
- 7 _____ 2. The judgment has been paid.
- 8 _____ 3. Exempt monies are being garnished:
- 9 _____ (a) One hundred fifty dollars in a bank, savings and
- 10 loan association or credit union.
- 11 _____ (b) Temporary assistance for needy families, social
- 12 security benefits, supplemental security income or
- 13 ~~veterans' administration~~ UNITED STATES DEPARTMENT
- 14 OF VETERANS AFFAIRS benefits.
- 15 _____ (c) Other pension or retirement benefits.
- 16 _____ (d) Workers' compensation or other insurance benefits.
- 17 _____ (e) Other _____.
- 18 _____ 4. Exempt personal property is being garnished:
- 19 _____ (a) Household goods, furnishings or appliances.
- 20 _____ (b) Motor vehicle equity under one thousand five
- 21 hundred dollars or three thousand dollars, if
- 22 applicable.
- 23 _____ (c) Personal items.
- 24 _____ (d) Tools and equipment of a trade.
- 25 _____ (e) Other _____.
- 26 _____ 5. No answer has been received within fifteen days.
- 27 _____ 6. The answer of the garnishee is incorrect.
- 28 _____ 7. Other _____.

29 _____
30 Date

31 _____
32 Name (print)

33 _____
34 Signature

35 _____
36 Address

37 _____
38 City, state, zip code

39 _____
40 Telephone number

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

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

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

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

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

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

18 2. A notice to the garnishee concerning the provisions of sections
19 12-1583 and 12-1593.

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

24 Sec. 21. Section 13-701, Arizona Revised Statutes, is amended to read:
25 13-701. Sentence of imprisonment for felony; presentence
26 report; aggravating and mitigating factors;
27 consecutive terms of imprisonment; definition

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

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

35 C. The minimum or maximum term imposed pursuant to section 13-702,
36 13-703, 13-704, 13-705, 13-708, 13-710, 13-1406, 13-3212 or 13-3419 may be
37 imposed only if one or more of the circumstances alleged to be in aggravation
38 of the crime are found to be true by the trier of fact beyond a reasonable
39 doubt or are admitted by the defendant, except that an alleged aggravating
40 circumstance under subsection D, paragraph 11 of this section shall be found
41 to be true by the court, or in mitigation of the crime are found to be true
42 by the court, on any evidence or information introduced or submitted to the
43 court or the trier of fact before sentencing or any evidence presented at
44 trial, and factual findings and reasons in support of such findings are set
45 forth on the record at the time of sentencing.

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

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

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

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

15 4. Presence of an accomplice.

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

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

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

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

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

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

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

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

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

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

43 15. Evidence that the defendant committed the crime out of malice
44 toward a victim because of the victim's identity in a group listed in section
45 41-1750, subsection A, paragraph 3 or because of the defendant's perception

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

3 16. The defendant was convicted of a violation of section 13-1102,
4 section 13-1103, section 13-1104, subsection A, paragraph 3 or section
5 13-1204, subsection A, paragraph 1 or 2 arising from an act that was
6 committed while driving a motor vehicle and the defendant's alcohol
7 concentration at the time of committing the offense was 0.15 or more. For
8 the purposes of this paragraph, "alcohol concentration" has the same meaning
9 prescribed in section 28-101.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 1. The age of the defendant.

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

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

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

13 5. During or immediately following the commission of the offense, the
14 defendant complied with all duties imposed under sections 28-661, 28-662 and
15 28-663.

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

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

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

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

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

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

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

40 13-925. Restoration of right to possess a firearm; mentally ill
41 persons; petition

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

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

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

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

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

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

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

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

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

25 6. Any other evidence deemed admissible by the court.

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

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

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

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

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

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

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

1 available to the national instant criminal background check system consistent
2 with the rules pertaining to the database. Within ten business days after
3 receiving the notification from the court, the department shall notify the
4 United States attorney general that the person no longer falls within the
5 provisions of section 13-3101, subsection A, paragraph 7, subdivision (a) or
6 18 United States Code section 922(d)(4) or (g)(4).

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

9 13-3101. Definitions

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

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

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

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

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

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

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

35 7. "Prohibited possessor" means any person:

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

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

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

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

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

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

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

18 (iii) Certain diplomats.

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

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

23 8. "Prohibited weapon":

24 (a) Includes the following:

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

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

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

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

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

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

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

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

3 (viii) An improvised explosive device.

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

7 (b) Does not include:

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

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

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

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

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

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

27 13-3994. Commitment; hearing; jurisdiction; definition

28 A. A person who is found guilty except insane pursuant to section
29 13-502 shall be committed to a secure state mental health facility under the
30 department of health services for a period of treatment.

31 B. If the criminal act of the person committed pursuant to subsection
32 A of this section did not cause the death or serious physical injury of or
33 the threat of death or serious physical injury to another person, the court
34 shall set a hearing date within seventy-five days after the person's
35 commitment to determine if the person is entitled to release from confinement
36 or if the person meets the standards for civil commitment pursuant to title
37 36, chapter 5. The court shall notify the medical director of the mental
38 health facility, the attorney general, the county attorney, the victim and
39 the attorney representing the person, if any, of the date of the hearing.
40 Fourteen days before the hearing the director of the mental health facility
41 shall submit to the court a report addressing the person's mental health and
42 dangerousness.

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

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

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

7 2. If the court finds that the person still suffers from a mental
8 disease or defect, may present a threat of danger to self or others, ~~is~~
9 ~~gravely disabled, is persistently or acutely disabled~~ HAS A GRAVE, PERSISTENT
10 OR ACUTE DISABILITY or has a propensity to reoffend, it shall order the
11 county attorney to institute civil commitment proceedings pursuant to title
12 36 and the person's commitment ordered pursuant to section 13-502, subsection
13 D shall terminate.

14 D. If the court finds that the criminal act of the person committed
15 pursuant to subsection A of this section caused the death or serious physical
16 injury of or the threat of death or serious physical injury to another
17 person, the court shall place the person under the jurisdiction of the
18 psychiatric security review board. The court shall state the beginning date,
19 length and ending date of the board's jurisdiction over the person. The
20 length of the board's jurisdiction over the person is equal to the sentence
21 the person could have received pursuant to section 13-707 or section 13-751,
22 subsection A or the presumptive sentence the defendant could have received
23 pursuant to section 13-702, subsection D, section 13-703, section 13-704,
24 section 13-705, section 13-706, subsection A, section 13-710 or section
25 13-1406. In making this determination the court shall not consider the
26 sentence enhancements for prior convictions under section 13-703 or 13-704.
27 The court shall retain jurisdiction of all matters that are not specifically
28 delegated to the psychiatric security review board for the duration of the
29 presumptive sentence.

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

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

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

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

1 dangerous, the psychiatric security review board shall order the person's
2 release. The person shall remain under the jurisdiction of the board.
3 Before determining to release a person pursuant to this paragraph, the board
4 shall consider the entire criminal history of the person and shall not order
5 the person's release if the board determines that the person has a propensity
6 to reoffend.

7 3. If the psychiatric security review board finds that the person
8 still suffers from a mental disease or defect or that the mental disease or
9 defect is in stable remission but the person is no longer dangerous, the
10 board shall order the person's conditional release. The person shall remain
11 under the board's jurisdiction. The board in conjunction with the state
12 mental health facility and behavioral health community providers shall
13 specify the conditions of the person's release. The board shall continue to
14 monitor and supervise a person who is released conditionally. Before the
15 conditional release of a person, a supervised treatment plan shall be in
16 place, including the necessary funding to implement the plan.

17 4. If the person is sentenced pursuant to section 13-704, section
18 13-710 or section 13-751, subsection A and the psychiatric security review
19 board finds that the person no longer needs ongoing treatment for a mental
20 disease and the person is dangerous or has a propensity to reoffend, the
21 board shall order the person to be transferred to the state department of
22 corrections for the remainder of the sentence imposed pursuant to section
23 13-502, subsection D. The board shall consider the safety and protection of
24 the public.

25 G. Within twenty days after the psychiatric security review board
26 orders a person to be transferred to the state department of corrections, the
27 person may file a petition for a judicial determination. The person shall
28 serve a copy of the request on the attorney general. If the person files a
29 petition for a judicial determination, the person shall remain in a state
30 mental health facility pending the result of the judicial determination. The
31 person requesting the judicial determination has the burden of proving the
32 issues by clear and convincing evidence. The judicial determination is
33 limited to the following issues:

34 1. Whether the person no longer needs ongoing treatment for a mental
35 disease.

36 2. Whether the person is dangerous or has a propensity to reoffend.

37 H. A person who is placed under the jurisdiction of the psychiatric
38 security review board pursuant to subsection D of this section may not seek a
39 new release hearing earlier than twenty months after a prior release hearing,
40 except that the medical director of the state mental health facility may
41 request a new release hearing for a person under the jurisdiction of the
42 psychiatric security review board at any time. The person shall not be held
43 in confinement for more than two years without a hearing before the board to
44 determine if the person should be released or conditionally released.

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

- 3 1. Public safety and protection are primary.
4 2. The applicant has the burden of proof by clear and convincing
5 evidence.

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

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

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

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

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

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

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

- 12 1. The mental condition of the person.
- 13 2. Whether the person is dangerous.

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

20 Q. If a person is found guilty except insane pursuant to section
21 13-502, the department of health services shall assume custody of the person
22 within ten days after receiving the order committing the person pursuant to
23 subsection A of this section. The Arizona state hospital shall collect
24 census data for guilty except insane treatment programs to establish maximum
25 capacity and the allocation formula required pursuant to section 36-206,
26 subsection D. If the Arizona state hospital reaches its funded capacity for
27 forensic programs, the department of health services may defer the admission
28 of the person found guilty except insane for up to an additional twenty days.
29 The department of health services shall reimburse the county for the actual
30 costs of each day the admission is deferred. If the department of health
31 services is not able to admit the person found guilty except insane at the
32 conclusion of the twenty day deferral period, the department of health
33 services shall notify the sentencing court, the prosecutor and the defense
34 counsel of this fact. On receipt of this notification, the prosecutor or the
35 person's defense counsel may request a hearing to determine the likely length
36 of time admission will continue to be deferred and whether any other action
37 should be taken. On receipt of the request for hearing, the court shall set
38 a hearing within ten days.

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

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

3 14-5312. General powers and duties of guardian

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

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

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

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

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

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

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

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

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

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

1 limiting or terminating the guardianship and seeking alternatives to
2 guardianship.

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

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

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

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

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

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

17 (a) The ward's age.

18 (b) The degree or type of developmental disability.

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

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

24 (e) The particular desires of the individual.

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

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

34 **14-5425. Distributive duties and powers of conservator**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31
32 14-5501. Durable power of attorney; creation; validity

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

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

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

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

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

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

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

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

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

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

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

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

21 I, _____, the principal, sign my name to this power
22 of attorney this _____ day of _____ and, being first duly
23 sworn, do declare to the undersigned authority that I sign and
24 execute this instrument as my power of attorney and that I sign
25 it willingly, or willingly direct another to sign for me, that I
26 execute it as my free and voluntary act for the purposes
27 expressed in the power of attorney and that I am eighteen years
28 of age or older, of sound mind and under no constraint or undue
29 influence.

30 _____
31 Principal

32 I, _____, the witness, sign my name to the foregoing
33 power of attorney being first duly sworn and do declare to the
34 undersigned authority that the principal signs and executes this
35 instrument as the principal's power of attorney and that the
36 principal signs it willingly, or willingly directs another to
37 sign for the principal, and that I, in the presence and hearing
38 of the principal, sign this power of attorney as witness to the
39 principal's signing and that to the best of my knowledge the
40 principal is eighteen years of age or older, of sound mind and
41 under no constraint or undue influence.

42 _____
43 Witness
44 The state of _____
45 County of _____

1 Subscribed, sworn to and acknowledged before me by
 2 _____, the principal, and subscribed and sworn to before me
 3 by _____, witness, this ____ day of _____.
 4 (seal)
 5 (signed) _____
 6 _____
 7 (notary public)

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

- 11 1. A person other than a natural person.
- 12 2. Any person, if the power of attorney to be created is a power
 13 coupled with an interest. For the purposes of this paragraph, "power coupled
 14 with an interest" means a power that forms a part of a contract and is
 15 security for money or for the performance of a valuable act.

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

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

23 14-5502. Effect of lapse of time, disability or incapacity
 24 All acts done by an agent pursuant to a durable power of attorney
 25 during any period of disability or incapacity of the principal ~~has~~ HAVE the
 26 same effect and ~~inures~~ INURE to the benefit of and ~~binds~~ BIND the principal
 27 and the principal's successors in interest as if the principal were not
 28 incapacitated or ~~disabled~~ A PERSON WITH A DISABILITY.

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

31 14-5503. Relation of agent to court appointed fiduciary
 32 A. If, following execution of a durable power of attorney, a court of
 33 the principal's domicile appoints any conservator or other fiduciary charged
 34 with the management of all of the principal's property or all of the
 35 principal's property except for specified exclusions, the agent is
 36 accountable to the court appointed fiduciary as well as to the
 37 principal. The court appointed fiduciary has the same power to revoke or
 38 amend the power of attorney that the principal would have if the principal
 39 were not ~~disabled~~ A PERSON WITH A DISABILITY or incapacitated.

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

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

3 14-6205. Designation of agent; authority; termination

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

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

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

15 14-6222. Multiple party accounts; payment; proof of death and
16 survivorship

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

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

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

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

31 14-6223. Pay on death accounts; payment

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

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

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

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

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

3 14-6224. Agency accounts; payment to designated agent

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

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

12 14-6226. Financial institutions; discharge of claims; exception

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

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

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

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

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

43 14-10103. Definitions

44 In this chapter, unless the context otherwise requires:

- 1 1. "Action", with respect to an act of a trustee, includes a failure
2 to act.
- 3 2. "Beneficiary" means a person who either:
4 (a) Has a present or future beneficial interest in a trust, vested or
5 contingent.
6 (b) In a capacity other than that of a trustee, holds a power of
7 appointment over trust property.
- 8 3. "Charitable trust" means a trust, or portion of a trust, created
9 for a charitable purpose described in section 14-10405, subsection A.
- 10 4. "Conservator" means a person appointed by the court to administer
11 the estate of a minor or an adult.
- 12 5. "Distributee" means a person who receives property from a trust
13 other than as a creditor or purchaser.
- 14 6. "Environmental law" means a federal, state or local law, rule,
15 regulation or ordinance relating to protection of the environment.
- 16 7. "Guardian" means a person appointed by the court to make decisions
17 regarding the support, care, education, health and welfare of a minor or an
18 adult. Guardian does not include a guardian ad litem.
- 19 8. "Interests of the beneficiaries" means the beneficial interests
20 provided in the terms of the trust.
- 21 9. "Internal revenue code" has the same meaning prescribed in section
22 43-105.
- 23 10. "Jurisdiction", with respect to a geographic area, includes a state
24 or country.
- 25 11. "Person" means an individual, corporation, business trust, estate,
26 trust, partnership, limited liability company, association, joint venture,
27 government, governmental subdivision, agency or instrumentality, public
28 corporation or any other legal or commercial entity.
- 29 12. "Power of withdrawal" means a presently exercisable general power
30 of appointment other than a power exercisable either:
31 (a) By a trustee and limited by an ascertainable standard.
32 (b) By a person other than in a fiduciary capacity and only on the
33 consent of the trustee or a person holding an adverse interest.
- 34 13. "Property" means anything that may be the subject of ownership,
35 whether real or personal, legal or equitable, or any interest in anything
36 that may be the subject of ownership.
- 37 14. "Qualified beneficiary" means a beneficiary who, on the date the
38 beneficiary's qualification is determined:
39 (a) Is a distributee or permissible distributee of trust income or
40 principal.
41 (b) Would be a distributee or permissible distributee of trust income
42 or principal if the interests of the distributees described in subdivision
43 (a) of this paragraph terminated on that date.
44 (c) Would be a distributee or permissible distributee of trust income
45 or principal if the trust terminated on that date.

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

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

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

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

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

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

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

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

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

37 15-808. Arizona online instruction; reports; definitions

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

- 45 1. The depth and breadth of curriculum choices.

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

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

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

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

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

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

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

19 9. The grade levels that will be served.

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

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

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

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

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

12 F. If a pupil is enrolled in a school district or charter school and
13 also participates in Arizona online instruction, the sum of the average daily
14 membership, which includes enrollment as prescribed in section 15-901,
15 subsection A, paragraph 1, subdivisions (a) and (b) and daily attendance as
16 prescribed in section 15-901, subsection A, paragraph 5, for that pupil in
17 the school district or charter school and in Arizona online instruction shall
18 not exceed 1.0. If the pupil is enrolled in a school district or a charter
19 school and also participates in Arizona online instruction and the sum of the
20 daily membership or daily attendance for that pupil is greater than 1.0, the
21 sum shall be reduced to 1.0 and shall be apportioned between the school
22 district, unless the school district is a joint technical education district
23 subject to the apportionment requirements of section 15-393, or charter
24 school and Arizona online instruction based on the percentage of total time
25 that the pupil is enrolled or in attendance in the school district or charter
26 school and Arizona online instruction. The uniform system of financial
27 records shall include guidelines for the apportionment of the pupil
28 enrollment and attendance as provided in this subsection. Pupils in Arizona
29 online instruction do not incur absences for purposes of this subsection and
30 may generate an average daily attendance of 1.0 for attendance hours during
31 any hour of the day, during any day of the week and at any time between July
32 1 and June 30 of each fiscal year. For kindergarten programs and grades one
33 through eight, average daily membership shall be calculated by dividing the
34 instructional hours as reported in the daily log required in subsection E of
35 this section by the applicable hourly requirements prescribed in section
36 15-901. For grades nine through twelve, average daily membership shall be
37 calculated by dividing the instructional hours as reported in the daily log
38 required in subsection E of this section by nine hundred. The average daily
39 membership of a pupil who participates in online instruction shall not exceed
40 1.0. Average daily membership shall not be calculated on the one hundredth
41 day of instruction for the purposes of this section. Funding shall be
42 determined as follows:

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

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

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

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

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

23 I. For the purposes of this section:

24 1. "Full-time student" means:

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

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

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

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

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

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

12 4. "Part-time student" means:

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

18 (b) A part-time student of seventy-five per cent average daily
19 membership shall be enrolled in at least three subjects throughout the year
20 that offer for first, second and third grade students at least five hundred
21 thirty-four instructional hours in a school year and for fourth, fifth and
22 sixth grade students at least six hundred sixty-eight instructional hours in
23 a school year. A part-time student of fifty per cent average daily
24 membership shall be enrolled in at least two subjects throughout the year
25 that offer for first, second and third grade students at least three hundred
26 fifty-six instructional hours in a school year and for fourth, fifth and
27 sixth grade students at least four hundred forty-five instructional hours in
28 a school year. A part-time student of twenty-five per cent average daily
29 membership shall be enrolled in at least one subject throughout the year that
30 offers for first, second and third grade students at least one hundred
31 seventy-eight instructional hours in a school year and for fourth, fifth and
32 sixth grade students at least two hundred twenty-three instructional hours in
33 a school year.

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

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

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

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

10 15-891. Arizona scholarships for pupils with disabilities
11 program; definitions

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

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

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

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

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

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

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

42 F. For the purposes of this article:

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

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

6 Sec. 38. Section 15-905, Arizona Revised Statutes, is amended to read:
7 15-905. School district budgets; notice; adoption; aggregate
8 budget limit; summary; adjustments; impact aid fund;
9 definition

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

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

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

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

1 C. The governing board of each school district shall publish or mail,
2 before the hearing and meeting, a copy of the proposed budget or the summary
3 of the proposed budget and a notice of the public hearing and board meeting
4 no later than ten days before the meeting. The proposed budget and the
5 summary of the proposed budget shall contain the percentage of increase or
6 decrease in each budget category of the proposed budget as compared to each
7 category of the budget for the current year. Notification shall be either by
8 publication in a newspaper of general circulation within the school district
9 in which the size of the newspaper print shall be at least eight-point type,
10 by electronic transmission of the information to the department of education
11 for posting on the department's website or by mailing the information to each
12 household in the school district. The cost of publication, website posting
13 or mailing shall be a charge against the school district. The publisher's
14 affidavit of publication shall be filed by the governing board with the
15 superintendent of public instruction within thirty days after publication.
16 If the budget or proposed budget and notice are posted on a website
17 maintained by the department of education or mailed, the board shall file an
18 affidavit with the superintendent of public instruction within thirty days
19 after the mailing or the date that the information is posted on the
20 website. If a truth in taxation notice and hearing is required under section
21 15-905.01, the governing board may combine the notice and hearing under this
22 section with the truth in taxation notice and hearing.

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

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

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

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

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

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

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

34 1. Amounts within the general budget limit, as provided in section
35 15-947, subsection C, may only be budgeted in the following sections of the
36 budget:

- 37 (a) The maintenance and operation section.
- 38 (b) The capital outlay section.

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

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

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

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

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

8 2. The unrestricted capital budget limit as determined in section
9 15-947 for the budget year.

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

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

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

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

1 on Indian lands and children residing within the boundaries of an
 2 accommodation school that is located on a military reservation and that is
 3 classified as a heavily impacted local educational agency pursuant to 20
 4 United States Code section 7703, which is in addition to basic assistance
 5 when determining the general budget limit as prescribed in section 15-947,
 6 subsection C. The increase in the general budget limit for children residing
 7 within the boundaries of an accommodation school that is located on a
 8 military reservation and that is classified as a heavily impacted local
 9 education agency shall equal the dollar amount calculated pursuant to 20
 10 United States Code section 7703(b)(2). The governing board may adjust before
 11 May 15 the budget for the current year based on any adjustments that result
 12 in increases over the amount estimated by the superintendent of public
 13 instruction for title VIII of the elementary and secondary education act of
 14 1965 assistance for such pupils for the fiscal year preceding the current
 15 year. The governing board shall adjust before May 15 the budget for the
 16 current year based on any adjustments that result in decreases in the amount
 17 estimated by the superintendent of public instruction for title VIII of the
 18 elementary and secondary education act of 1965 assistance for such pupils for
 19 the fiscal year preceding the current year. Not later than May 18, the
 20 budget as adjusted shall be submitted electronically to the superintendent of
 21 public instruction. Procedures for complying with this subsection shall be
 22 as prescribed in the uniform system of financial records.

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

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

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

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

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

41 1. For fiscal year 1988-1989:

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

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

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

8 (c) Multiply one thousand nine hundred fourteen dollars by the number
9 of children residing on Indian lands who have disabilities or also have
10 specific learning disabilities reported to the division of impact aid, United
11 States department of education in the district's application for fiscal year
12 1987-1988.

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

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

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

23 3. If the district is eligible to use the provisions of this
24 subsection, subtract the amount of title VIII of the elementary and secondary
25 education act of 1965 assistance determined in subsection K of this section
26 from the sum determined in paragraph 1, subdivision (d) of this subsection.
27 The difference is the increase in the amount that may be included in
28 determining the general budget limit as provided in subsection K of this
29 section, if including this amount does not increase the district's primary
30 tax rate for the budget year. If the amount of title VIII of the elementary
31 and secondary education act of 1965 assistance determined in subsection K of
32 this section is adjusted for the current year, the increase determined in
33 this paragraph shall be recomputed using the adjusted amount and the
34 recomputed increase shall be reported to the department of education by May
35 15 on a form prescribed by the department of education.

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

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

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

4 1. Determine the minimum cost. The minimum cost for fiscal year
5 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year
6 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior
7 year increased by the growth rate as prescribed by law, subject to
8 appropriation.

9 2. Determine the hourly rate. The hourly rate for fiscal year
10 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and
11 thereafter, the hourly rate is the hourly rate for the prior year increased
12 by the growth rate as prescribed by law, subject to appropriation.

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

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

21 (a) Determine the sum of the following:

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

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

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

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

30 (b) For the purposes of this paragraph:

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

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

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

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

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

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

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

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

22 10. If the governing board underestimated the amount that may be
23 budgeted for title VIII of the elementary and secondary education act of
24 1965, section 8007 administrative costs for the current year, the board may
25 adjust the general budget limit and the budget before May 15. If the
26 governing board overestimated the amount that may be budgeted for title VIII
27 of the elementary and secondary education act of 1965 administrative costs
28 for the current year, the board shall adjust the general budget limit and the
29 budget before May 15.

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

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

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

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

24 Sec. 39. Section 15-948, Arizona Revised Statutes, is amended to read:
25 15-948. Adjustment for growth in student count

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

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

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

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

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

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

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

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

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

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

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

21 C. If a school district meets the criteria specified in subsection A
22 or B of this section, or both, the governing board of the school district,
23 after notice is given and a public hearing held as provided in section
24 15-905, subsection D, at any time before May 15 may revise its budget to
25 include the increase in its revenue control limit and district support level
26 for the current year utilizing the procedure prescribed in subsection A or B
27 of this section, or both. Not later than May 18, the budget as revised shall
28 be submitted electronically to the superintendent of public instruction.

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

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

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

44 15-1201. Definitions

45 In this article, unless the context otherwise requires:

1 1. "Fund" means the special education fund established by section
2 15-1182.

3 2. "Institution" means the Arizona state schools for the deaf and the
4 blind, the Arizona training program facilities as provided in section 36-551
5 and the Arizona state hospital.

6 3. "Place" or "placement" means placement of a person in an
7 institution, as defined in this section, for special education only or for
8 special education and residential and custodial care.

9 4. "Special education" means the adjustment of the environmental
10 factors, modification of the course of study and adaptation of teaching
11 methods, materials and techniques to provide educationally for those children
12 who are at least three but not more than twenty-one years of age and who are
13 gifted or ~~disabled~~ HAVE A DISABILITY to such an extent that they do not
14 profit from the regular course of study or need special education services in
15 order to profit. Difficulty in writing, speaking or understanding the
16 English language due to an environmental background in which a language other
17 than English is spoken primarily or exclusively shall not be considered a
18 sufficient handicap to require special education.

19 Sec. 41. Section 15-1325, Arizona Revised Statutes, is amended to
20 read:

21 15-1325. Superintendent and other personnel; appointment;
22 compensation; term of employment; qualifications;
23 nonretention notice

24 A. There shall be a superintendent of the schools who shall be the
25 executive officer. The superintendent shall be appointed by the board of
26 directors, and the board shall issue one, two or three year contracts for the
27 superintendent. The superintendent is eligible to receive compensation
28 pursuant to section 38-611. The board of directors shall designate the
29 management and supervisory positions. The superintendent, with the approval
30 of and acting on behalf of the board, shall issue one, two or three year
31 contracts for the management and supervisory positions designated by the
32 board pursuant to this section. Compensation for persons issued contracts
33 pursuant to this section shall be paid according to a range of compensation
34 approved by the board of directors.

35 B. The superintendent and the management and supervisory staff, except
36 for the persons contracted for personnel service and business and finance
37 service shall be persons who are competent educators of the deaf or the
38 blind, or ~~the multiply disabled~~ PERSONS WITH MULTIDISABILITIES and THE
39 sensory impaired, and who are acquainted with school management and class
40 instruction of the deaf or the blind, or ~~the multiply disabled~~ PERSONS WITH
41 MULTIDISABILITIES and THE sensory impaired. A person is eligible to be the
42 superintendent, or hold a position on the management or supervisory staff
43 except for a person contracted for personnel service and business and finance
44 service if the person has had actual experience as a teacher of the deaf or

1 the blind or ~~the multiply disabled~~ PERSONS WITH MULTIDISABILITIES and THE
2 sensory impaired.

3 C. The board of directors shall establish a system for the evaluation
4 of the performance of the superintendent in consultation with the
5 administration of the schools. The superintendent shall establish a system
6 for the evaluation of the performance of persons contracted pursuant to this
7 section in consultation with the staff of the schools.

8 D. On or before April 15 preceding the expiration of the
9 superintendent's employment contract, the board shall give written notice to
10 the superintendent of the board's intention to offer or not to offer a new
11 employment contract. On or before April 15 preceding the expiration of the
12 contract of a person contracted by the superintendent, acting on behalf of
13 the board of directors pursuant to this section, the superintendent shall
14 give written notice to the person of the board's intention to offer or not to
15 offer the person a new employment contract. If the board decides to offer
16 the superintendent a new employment contract, the board shall offer the new
17 employment contract on or before May 15 preceding the expiration of the
18 superintendent's current employment contract. If the board decides to offer
19 a new employment contract to a person contracted pursuant to this section,
20 the superintendent, acting on behalf of the board, shall offer the new
21 employment contract on or before May 15 preceding the expiration of the
22 current employment contract. The person offered a contract pursuant to this
23 subsection shall accept the contract by signing and returning it to the board
24 of directors within thirty days or the offer is deemed refused. If the
25 person adds written terms or conditions to the employment contract offered,
26 the person fails to accept the employment contract.

27 E. Notice of the board of directors' intention not to reemploy the
28 superintendent or a person contracted pursuant to this section shall be
29 delivered to the superintendent or the person contracted by one of the
30 following:

31 1. The superintendent, in person, acting on behalf of the board.

32 2. Certified mail, postmarked on or before the deadline prescribed in
33 subsection D of this section and directed to the place of residence as
34 recorded in the agency's records.

35 Sec. 42. Section 15-1371, Arizona Revised Statutes, is amended to
36 read:

37 15-1371. Equalization assistance for state educational system
38 for committed youth; state education fund for
39 committed youth

40 A. The superintendent of the state educational system for committed
41 youth shall calculate a base support level as prescribed in section 15-943
42 and district additional assistance as prescribed in section 15-961 for the
43 educational system established pursuant to section 41-2831, except that:

44 1. Notwithstanding section 15-901:

1 (a) The student count shall be determined using the following
2 definitions:

3 (i) "Daily attendance" means days in which a pupil attends an
4 educational program for a minimum of two hundred forty minutes not including
5 meal and recess periods. Attendance for one hundred twenty or more minutes
6 but fewer than two hundred forty minutes shall be counted as one-half day's
7 attendance.

8 (ii) "Fractional student" means a pupil enrolled in an educational
9 program of one hundred twenty or more minutes but fewer than two hundred
10 forty minutes a day not including meal and recess periods. A fractional
11 student shall be counted as one-half of a full-time student.

12 (iii) "Full-time student" means a pupil enrolled in an educational
13 program for a minimum of two hundred forty minutes a day not including meal
14 and recess periods.

15 (b) ~~"Seriously emotionally disabled~~ Pupils WITH SERIOUS EMOTIONAL
16 DISABILITIES enrolled in a school district program as provided in section
17 15-765" includes ~~seriously emotionally disabled~~ pupils WITH SERIOUS EMOTIONAL
18 DISABILITIES enrolled in the department of juvenile corrections school
19 system.

20 2. All pupils shall be counted as if they were enrolled in grades nine
21 through twelve.

22 3. The teacher experience index is 1.00.

23 4. The base support level shall be calculated using the base level
24 multiplied by 1.0, except that the state educational system for committed
25 youth is also eligible beginning with fiscal year 1992-1993 for additional
26 teacher compensation monies as specified in section 15-952.

27 5. Section 15-943, paragraph 1 does not apply.

28 B. The superintendent may use sections 15-855 and 15-948 in making the
29 calculations prescribed in subsection A of this section, except that for the
30 1992-1993 fiscal year rapid decline shall not be used. The superintendent of
31 the system and the department of education shall prescribe procedures for
32 determining average daily membership.

33 C. Equalization assistance for the state educational system for
34 committed youth for the budget year is determined by adding the amount of the
35 base support level and district additional assistance for the budget year
36 calculated as prescribed in subsection A of this section.

37 D. The state educational system for committed youth shall not receive
38 twenty-five per cent of the equalization assistance unless it is accredited
39 by the north central association of colleges and secondary schools.

40 E. The state education fund for committed youth is established. Fund
41 monies shall be used for the purposes of the state educational system for
42 committed youth, and notwithstanding section 35-173, monies appropriated to
43 the fund shall not be transferred to or used for any program not within the
44 state educational system for committed youth. State equalization assistance
45 for the state educational system for committed youth as determined in

1 subsection A of this section, other state and federal monies received from
2 the department of education for the state educational system for committed
3 youth and monies appropriated for the state educational system for committed
4 youth, except monies appropriated pursuant to subsection F of this section,
5 shall be deposited in the fund. The state treasurer shall maintain separate
6 accounts for fund monies if the separate accounts are required by statute or
7 federal law.

8 F. The department of juvenile corrections may seek appropriations for
9 capital needs for land, buildings and improvements, including repairs and
10 maintenance, required to maintain the state educational system for committed
11 youth.

12 G. The state board of education shall apportion state aid and deposit
13 it, pursuant to sections 35-146 and 35-147, in the state education fund for
14 committed youth in an amount as determined by subsection A of this section.
15 The apportionments shall be as follows:

16 1. On July 1, one-third of the total amount to be apportioned during
17 the fiscal year.

18 2. On October 15, one-twelfth of the total amount to be apportioned
19 during the fiscal year.

20 3. On December 15, one-twelfth of the total amount to be apportioned
21 during the fiscal year.

22 4. On January 15, one-twelfth of the total amount to be apportioned
23 during the fiscal year.

24 5. On February 15, one-twelfth of the total amount to be apportioned
25 during the fiscal year.

26 6. On March 15, one-twelfth of the total amount to be apportioned
27 during the fiscal year.

28 7. On April 15, one-twelfth of the total amount to be apportioned
29 during the fiscal year.

30 8. On May 15, one-twelfth of the total amount to be apportioned during
31 the fiscal year.

32 9. On June 15, one-twelfth of the total amount to be apportioned
33 during the fiscal year.

34 H. In conjunction with the department of administration, the
35 superintendent of the state educational system for committed youth shall
36 establish procedures to account for the receipt and expenditure of state
37 education fund for committed youth monies by modifying the current accounting
38 system used for state agencies as necessary.

39 Sec. 43. Section 15-1650.01, Arizona Revised Statutes, is amended to
40 read:

41 15-1650.01. Task force for retraining military veterans with
42 disabilities

43 A. The task force for retraining ~~disabled~~ military veterans WITH
44 DISABILITIES is established under the Arizona board of regents consisting of
45 the following members:

- 1 1. One person who is appointed by the president of Arizona state
2 university.
- 3 2. One person who is appointed by the president of the university of
4 Arizona.
- 5 3. One person who is appointed by the president of northern Arizona
6 university.
- 7 4. Two persons who are appointed by the governor, one of ~~which~~ WHOM
8 must be a community college representative.
- 9 5. One person who is appointed by the president of the senate.
- 10 6. One person who is appointed by the speaker of the house of
11 representatives.
- 12 B. The task force shall elect a chairperson from among the members of
13 the task force. The task force shall elect a new chairperson each calendar
14 year. A quorum shall consist of a majority of the members. The task force
15 shall meet at least once each calendar quarter.
- 16 C. The members of the task force serve at the pleasure of the
17 appointing authority.
- 18 D. The Arizona board of regents shall provide staff support,
19 assistance and resources to the task force.
- 20 E. Task force members are not eligible to receive compensation.
- 21 F. The task force shall:
 - 22 1. Research and collect information on the availability of educational
23 programs to retrain ~~disabled~~ military veterans WITH DISABILITIES who are
24 unable to return to their previous occupations.
 - 25 2. Communicate and publicize the availability of educational programs
26 to retrain ~~disabled~~ military veterans WITH DISABILITIES who are unable to
27 return to their previous occupations.
 - 28 3. Act as a coordinating entity between ~~disabled~~ military veterans
29 WITH DISABILITIES who are unable to return to their previous occupations,
30 public educational institutions, private educational institutions, local
31 government agencies and programs, state government agencies and programs,
32 including the ~~Arizona~~ department of veterans' services and benefit counselors
33 employed by the ~~Arizona~~ department of veterans' services, federal government
34 agencies and programs, including the United States department of veterans
35 affairs and counselors employed by the United States department of veterans
36 affairs, private organizations and nonprofit organizations.
 - 37 4. Examine best practices of other states in dealing with the
38 retraining of ~~disabled~~ military veterans WITH DISABILITIES who are unable to
39 return to their previous occupations.
 - 40 5. Provide a general assessment of the extent to which the
41 universities and community colleges in this state have reached out to
42 ~~disabled~~ military veterans WITH DISABILITIES who are unable to return to
43 their previous occupations.
 - 44 6. Submit an annual report on or before December 1 ~~of each year~~
45 regarding the task force's activities to the governor, the speaker of the

1 house of representatives and the president of the senate. Copies of this
2 report shall be provided to the secretary of state and the Arizona state
3 library, archives and public records.

4 Sec. 44. Section 15-1808, Arizona Revised Statutes, is amended to
5 read:

6 15-1808. Tuition waiver for child or spouse of peace officer,
7 correctional officer, firefighter, emergency
8 paramedic, national guard member or member of the
9 United States armed forces killed in the line of
10 duty; national guard members with disabilities;
11 United States armed forces members with
12 disabilities; definitions

13 A. The board of regents, after verification by the Arizona peace
14 officers memorial board, by the Arizona fire fighters and emergency
15 paramedics memorial board, by the adjutant general of the national guard or
16 by the Arizona department of veterans' services that a person is a child or a
17 spouse of a peace officer, correctional officer, fire fighter, emergency
18 paramedic, national guard member or member of the United States armed forces
19 who was a resident of the state of Arizona or stationed in Arizona and who
20 was killed in the line of duty or who died from injuries suffered in the line
21 of duty while traveling to or from duty, shall provide the person who
22 qualifies under subsection B of this section and who otherwise meets the
23 qualifications for admission with a tuition waiver scholarship at any
24 university under the jurisdiction of the board. A district as defined in
25 section 15-1401, after verification by the Arizona peace officers memorial
26 board, by the Arizona fire fighters and emergency paramedics memorial board,
27 by the adjutant general of the national guard or by the Arizona department of
28 veterans' services that a person is the child or the spouse of a peace
29 officer, correctional officer, ~~fire fighter~~ FIREFIGHTER, emergency paramedic,
30 national guard member or member of the United States armed forces who was a
31 resident of Arizona or stationed in Arizona and who was killed in the line of
32 duty or who died from injuries suffered in the line of duty while traveling
33 to or from duty, shall provide the person who qualifies under subsection B of
34 this section and who otherwise meets the qualifications for admission with a
35 tuition waiver scholarship at any community college under the jurisdiction of
36 the district.

37 B. The tuition waiver scholarships shall be limited to children who
38 are thirty years of age or younger or a spouse who has not remarried and
39 shall be limited for a spouse or for any one child to no more than sixty-four
40 credit hours at Arizona community colleges and a total number of credits
41 including any transfer credits from an Arizona community college equal to the
42 number of credits required for a baccalaureate degree at Arizona universities
43 for that student's initially declared course of study.

44 C. A member of the Arizona national guard who received a purple heart
45 citation on or after September 11, 2001 or a former member of the Arizona

1 national guard who was medically discharged from the Arizona national guard
2 due to an injury or disability suffered during status under title 10, United
3 States Code, in weekend training status, in annual training status or in
4 response to a state of emergency declared by the governor is eligible for a
5 tuition waiver scholarship provided for in this section.

6 D. The board of regents, after verification by the Arizona department
7 of veterans' services that a person is a member or former member of the
8 United States armed forces who received a purple heart citation, who was a
9 resident of the state of Arizona or was stationed in Arizona at the time of
10 the injury that resulted in the purple heart citation and whose disability
11 rating determined by the United States department of veterans affairs is
12 fifty per cent or more, shall provide the person who otherwise meets the
13 qualifications for admission with a tuition waiver scholarship at any
14 university under the jurisdiction of the board. A district as defined in
15 section 15-1401, after verification by the Arizona department of veterans'
16 services that a person is a member or former member of the United States
17 armed forces who received a purple heart citation, who was a resident of the
18 state of Arizona or was stationed in Arizona at the time of the injury that
19 resulted in the purple heart citation and whose disability rating determined
20 by the United States department of veterans affairs is fifty per cent or
21 more, shall provide the person who otherwise meets the qualifications for
22 admission with a tuition waiver scholarship at any community college under
23 the jurisdiction of the district. A person who is convicted of a felony is
24 ineligible for a tuition waiver scholarship provided for in this subsection.

25 E. For the purposes of this section:

26 1. "Correctional officer" means a person, other than an elected
27 official, who is employed by this state or a county, city or town and who is
28 responsible for the supervision, protection, care, custody or control of
29 inmates in a state, county or municipal correctional institution, including
30 counselors but excluding secretarial, clerical and professionally trained
31 personnel.

32 2. "Emergency paramedic" means a person who has been trained in an
33 emergency paramedic training program certified by the director of the
34 department of health services or in an equivalent training program and who is
35 certified by the director of the department of health services to render
36 services pursuant to section 36-2205.

37 3. ~~"Fire-fighter"~~ "FIREFIGHTER" means a professional ~~fire-fighter~~
38 FIREFIGHTER who is a member of a state, federal, tribal, city, county,
39 district or private fire department.

40 4. "Peace officers" means sheriffs of counties, constables, marshals,
41 police officers of cities and towns, commissioned personnel of the department
42 of public safety and police officers appointed by community college district
43 governing boards or the Arizona board of regents who have received a
44 certificate from the Arizona peace officer standards and training board, and

1 other state, federal, tribal, city or county officers vested by law with a
2 duty to maintain public order and make arrests.

3 Sec. 45. Section 15-2401, Arizona Revised Statutes, is amended to
4 read:

5 15-2401. Definitions

6 In this chapter, unless the context otherwise requires:

7 1. "Curriculum" means a complete course of study for a particular
8 content area or grade level, including any supplemental materials required by
9 the curriculum.

10 2. "Department" means the department of education.

11 3. "Eligible postsecondary institution" means a community college as
12 defined in section 15-1401, a university under the jurisdiction of the
13 Arizona board of regents or an accredited private postsecondary institution.

14 4. "Parent" means a resident of this state who is the parent or legal
15 guardian of a qualified student.

16 5. "Qualified school" means a nongovernmental primary or secondary
17 school or a preschool for ~~handicapped students~~ PUPILS WITH DISABILITIES that
18 is located in this state and that does not discriminate on the basis of race,
19 color or national origin.

20 6. "Qualified student" means a resident of this state who:

21 (a) Is, or if the child is currently eligible to attend kindergarten,
22 the department determines would be, any of the following:

23 (i) Identified as having a disability under section 504 of the
24 rehabilitation act of 1973 (29 United States Code section 794).

25 (ii) Identified by a school district as a child with a disability as
26 defined in section 15-761.

27 (iii) A child with a disability who is eligible to receive services
28 from a school district under section 15-763.

29 (iv) Attending a school or school district that has been assigned a
30 letter grade of D or F pursuant to section 15-241.

31 (v) A previous recipient of a scholarship issued pursuant to section
32 15-891 or this section.

33 (vi) A child of a parent who is a member of the armed forces of the
34 United States and who is on active duty.

35 (vii) A child with a guardian who is a member of the armed forces of
36 the United States and who is on active duty.

37 (viii) A child who is a ward of the juvenile court and who is residing
38 with a prospective permanent placement pursuant to section 8-862 and the case
39 plan is adoption or permanent guardianship.

40 (ix) A child who was a ward of the juvenile court and who achieved
41 permanency through adoption or permanent guardianship.

42 (b) And who meets any of the following requirements:

43 (i) Attended a governmental primary or secondary school as a full-time
44 student as defined in section 15-901 for at least the first one hundred days
45 of the prior fiscal year and who transferred from a governmental primary or

1 secondary school under a contract to participate in an empowerment
2 scholarship account.

3 (ii) Previously participated in the empowerment scholarship account
4 program.

5 (iii) Received a scholarship under section 43-1505 and who continues
6 to attend a qualified school.

7 (iv) Was eligible for an Arizona scholarship for pupils with
8 disabilities and received monies from a school tuition organization pursuant
9 to section 43-1505 or received an Arizona scholarship for pupils with
10 disabilities but did not receive monies from a school tuition organization
11 pursuant to section 43-1505 and who continues to attend a qualified school.

12 (v) Has not previously attended a governmental primary or secondary
13 school but is currently eligible to enroll in a kindergarten program in a
14 school district or charter school in this state.

15 7. "Treasurer" means the office of the state treasurer.

16 Sec. 46. Section 16-549, Arizona Revised Statutes, is amended to read:
17 16-549. Special election boards; procedure for voting ill or
18 electors with disabilities; expenses

19 A. The county recorder or other officer in charge of elections, for
20 the purpose of making it possible for qualified electors who are ill or
21 ~~disabled~~ HAVE A DISABILITY to vote, may appoint such number of special
22 election boards as needed. In a partisan election, each such board shall
23 consist of two members, one from each of the two political parties which cast
24 the highest number of votes in the state in the last preceding general
25 election. The county chairman of each such party shall furnish, within sixty
26 days prior to the election day, the county recorder or other officer in
27 charge of elections with a list of names of qualified electors within the
28 chairman's political party, and such additional lists as may be required,
29 from which the county recorder or other officer in charge of elections shall
30 appoint members to such special election boards. The county recorder or
31 other officer in charge of elections may refuse for cause to appoint or may
32 for cause remove a member of this board. A person who is a candidate for an
33 office other than precinct committeeman is not eligible to serve on the
34 special election board for that election.

35 B. Members of special election boards appointed under the provisions
36 of this section shall be reimbursed for travel expenses in the manner
37 provided by law and shall also receive such compensation as the board of
38 supervisors or the governing body prescribes, all of which shall be paid by
39 the county or other political subdivision.

40 C. In lieu of the mailed early ballot procedure, any qualified elector
41 who is confined as the result of a continuing illness or physical disability
42 and is, therefore, not able to go to the polls on the day of the next
43 election and who does not wish to vote by the mailed early ballot procedure,
44 may make a verbal or a signed written request to the county recorder or other
45 officer in charge of elections to have a ballot personally delivered to the

1 elector by the special election board at the elector's place of confinement
2 within the county or other political subdivision. The ballot shall be
3 delivered to the elector in person by a special election board as provided in
4 this section. Such requests must be made by 5:00 p.m. on the second Friday
5 before the election.

6 D. Qualified electors who become ill or ~~disabled~~ **BECOME A PERSON WITH**
7 **A DISABILITY** after the second Friday before the election may nevertheless
8 request personal ballot delivery pursuant to this section, and the county
9 recorder or other officer in charge of elections shall when possible honor
10 such requests up to and including the last day before the
11 election. Qualified electors who are admitted to a hospital after 5:00 p.m.
12 on the second Friday preceding the election and before 5:00 p.m. on election
13 day may request the county recorder or other officer in charge of elections
14 to provide a special election board with a ballot at the elector's place of
15 confinement. If the county recorder or other officer in charge of elections
16 is able to accommodate the request, the voted ballot of the elector shall be
17 sealed in an envelope and shall be processed as a provisional ballot pursuant
18 to section 16-584.

19 E. The manner and procedure of voting shall be as provided in section
20 16-548, except that the marked ballot in the sealed envelope shall be handed
21 by the elector to the special election board and shall be delivered by the
22 board to the county recorder or other officer in charge of elections.

23 Sec. 47. Section 16-581, Arizona Revised Statutes, is amended to read:
24 16-581. Elderly persons; persons with disabilities;
25 inaccessible polling places; definitions

26 A. If the board of supervisors determines that a polling place is
27 inaccessible to elderly **PERSONS** or ~~handicapped~~ persons **WITH DISABILITIES**, it
28 shall provide for alternative voting according to procedures established by
29 the chief election officer of the state pursuant to the voting accessibility
30 for the elderly and handicapped act (P.L. 98-435; 98 Stat. 1678, 1984; 42
31 United States Code section 1973).

32 B. For the purposes of this section:

33 1. "Elderly" means sixty-five years of age or older.

34 2. ~~"Handicapped"~~ **"PERSONS WITH DISABILITIES"** means ~~having~~ **A PERSON WHO**
35 **HAS** a temporary or permanent physical disability that substantially restricts
36 or limits ~~a-~~ **THE** person's access to polling places.

37 Sec. 48. Section 17-332, Arizona Revised Statutes, is amended to read:
38 17-332. Form and contents of license; duplicate licenses;
39 period of validity

40 A. Licenses and license materials shall be prepared by the department
41 and may be furnished and charged to dealers authorized to issue licenses.
42 The license shall be issued in the name of the department. Except as
43 provided by rule adopted by the commission, each license shall be signed by
44 the licensee in ink on the face of the license and any license not signed is
45 invalid. With each license authorizing the taking of big game the department

1 shall provide such tags as the commission may prescribe, which the licensee
2 shall attach to the big game animal in such manner as prescribed by the
3 commission. The commission shall limit the number of big game permits issued
4 to nonresidents in a random drawing to ten per cent or fewer of the total
5 hunt permits, but in extraordinary circumstances, at a public meeting the
6 commission may increase the number of permits issued to nonresidents in a
7 random drawing if, on separate roll call votes, the members of the commission
8 unanimously:

9 1. Support the finding of a specifically described extraordinary
10 circumstance.

11 2. Adopt the increased number of nonresident permits for the hunt.

12 B. The commission shall issue with each license a shipping permit
13 entitling the holder of the license to a shipment of game or fish as provided
14 by article 4 of this chapter.

15 C. It is unlawful, except as provided by the commission, for any
16 person to apply for or obtain in any one license year more than one original
17 license permitting the taking of big game. A duplicate license or tag may be
18 issued by the department or by a license dealer if the person requesting such
19 license or tag furnishes the information deemed necessary by the commission.

20 D. No license or permit is transferable, nor shall such license or
21 permit be used by anyone except the person to whom such license or permit was
22 issued, except that:

23 1. A person may transfer the person's big game permit or tag to a
24 qualified organization for use by a minor child who has a life-threatening
25 medical condition or by a minor child who has a permanent physical
26 disability. The commission may prescribe the manner and conditions of
27 transferring and using permits and tags under this paragraph. If a
28 ~~physically disabled~~ child WITH A PHYSICAL DISABILITY is under fourteen years
29 of age, the child must satisfactorily complete the Arizona hunter education
30 course or another comparable hunter education course that is approved by the
31 director. For the purposes of this paragraph:

32 (a) "Disability" means a permanent physical impairment that
33 substantially limits one or more of the child's major life activities
34 requiring the assistance of another person or a mechanical device for
35 physical mobility.

36 (b) "Qualified organization" means a nonprofit organization that is
37 qualified under section 501(c)(3) of the United States internal revenue code
38 and that affords opportunities and experiences to children with
39 life-threatening medical conditions or with physical disabilities.

40 2. A parent, grandparent or legal guardian may allow the parent's,
41 grandparent's or guardian's minor child or minor grandchild to use the
42 parent's, grandparent's or guardian's big game permit or tag to take big game
43 pursuant to the following requirements:

44 (a) The parent, grandparent or guardian must transfer the permit or
45 tag to the child in a manner prescribed by the commission.

1 (b) The parent or guardian must accompany the child in the field or,
2 if a grandparent allows a minor grandchild to use the grandparent's permit or
3 tag, the grandparent, the parent or the child's guardian must accompany the
4 child in the field.

5 (c) The child must possess a valid hunting license and, if under
6 fourteen years of age, must satisfactorily complete the Arizona hunter
7 education course or another comparable hunter education course that is
8 approved by the director.

9 (d) Any big game that is taken counts toward the child's bag limit.

10 E. No refunds may be made for the purchase of a license or permit.

11 F. Licenses are valid for a license year as prescribed in rule by the
12 commission. Lifetime licenses and benefactor licenses are valid for the
13 lifetime of the licensee.

14 Sec. 49. Section 20-294, Arizona Revised Statutes, is amended to read:

15 20-294. Temporary licensing

16 A. The director may issue a temporary insurance producer license for
17 not more than one hundred eighty days without requiring an examination if the
18 director deems that the temporary license is necessary for the servicing of
19 an insurance business in the following cases:

20 1. To the surviving spouse or court appointed personal representative
21 of a licensed insurance producer who dies or becomes ~~mentally or physically~~
22 ~~disabled~~ **A PERSON WITH A MENTAL OR PHYSICAL DISABILITY** to allow adequate time
23 for the sale of the insurance business owned by the producer, for the
24 recovery of the producer and return of the producer to the business or to
25 provide for the training and licensing of new personnel to operate the
26 producer's business.

27 2. To a member or employee of a business entity that is licensed as an
28 insurance producer on the death or disability of an individual who is the
29 designated producer on the business entity application or license.

30 3. To the designee of a licensed insurance producer who enters active
31 service in the armed forces of the United States.

32 B. By order the director may impose conditions or limitations on the
33 authority of any temporary licensee in any way the director deems necessary
34 to protect insureds and the public, including requiring the temporary
35 licensee to have a suitable sponsor who is a licensed insurance producer or
36 insurer and who assumes responsibility for all acts of the temporary
37 licensee. Unless the director imposes conditions or limitations pursuant to
38 this subsection, a temporary licensee has the same rights and privileges
39 prescribed in this article for an insurance producer.

40 C. By order the director may summarily revoke a temporary license if
41 the interests of insureds or the public are endangered. A temporary license
42 may not continue after the owner or the personal representative disposes of
43 the business.

1 Sec. 50. Section 20-505, Arizona Revised Statutes, is amended to read:
2 20-505. Liabilities

3 In any determination of the financial condition of an insurer, capital
4 stock and liabilities to be charged against its assets shall include:

5 1. The amount of its capital stock outstanding, if any.

6 2. The amount, estimated consistent with the provisions of this title,
7 necessary to pay all of its unpaid losses and claims incurred on or prior to
8 the date of statement, whether reported or unreported, together with the
9 expenses of adjustment or settlement thereof.

10 3. With reference to life and disability insurance and annuity
11 contracts:

12 (a) The amount of reserves on life insurance policies and annuity
13 contracts in force, including disability benefits for both active ~~and~~
14 ~~disabled~~ lives **AND LIVES WITH DISABILITIES** and accidental death benefits, in
15 or supplementary thereto, and disability insurance, valued according to the
16 tables of mortality, tables of morbidity, rates of interest, and methods
17 adopted pursuant to this title which are applicable thereto.

18 (b) Any additional reserves which may be required by the director
19 consistent with practice formulated or approved by the national association
20 of insurance commissioners, on account of such insurance.

21 4. With reference to insurance other than specified in paragraph 3 of
22 this section, and other than title insurance, the amount of reserves equal to
23 the unearned portions of the gross premiums charged on policies in force,
24 computed in accordance with this article.

25 5. Taxes, expenses and other obligations due or accrued at the date of
26 the statement.

27 Sec. 51. Section 20-826, Arizona Revised Statutes, is amended to read:
28 20-826. Subscription contracts; definitions

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

32 B. Each contract shall plainly state the services to which the
33 subscriber is entitled and those to which the subscriber is not entitled
34 under the plan, and shall constitute a direct obligation of the providers of
35 services with which the corporation has contracted for hospital, medical,
36 dental or optometric services.

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

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

42 2. Any home health services that are performed by a licensed home
43 health agency and that a physician has prescribed in lieu of hospital
44 services, as defined by the director, providing the hospital services would
45 have been covered.

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

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

7 D. Each contract for dental or optometric services shall be so written
8 that the corporation shall pay benefits for contracted dental or optometric
9 services provided by dentists or optometrists.

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

28 F. Each contract that is delivered or issued for delivery in this
29 state after December 25, 1977 and that provides that coverage of a dependent
30 child shall terminate on attainment of the limiting age for dependent
31 children specified in the contract shall also provide in substance that
32 attainment of such limiting age shall not operate to terminate the coverage
33 of such child while the child is and continues to be both incapable of
34 self-sustaining employment by reason of intellectual disability or physical
35 ~~handicap~~ DISABILITY and chiefly dependent on the subscriber for support and
36 maintenance. Proof of such incapacity and dependency shall be furnished to
37 the corporation by the subscriber within thirty-one days of the child's
38 attainment of the limiting age and subsequently as may be required by the
39 corporation, but not more frequently than annually after the two-year period
40 following the child's attainment of the limiting age.

41 G. No corporation may cancel or refuse to renew any subscriber's
42 contract without giving notice of such cancellation or nonrenewal to the
43 subscriber under such contract. A notice by the corporation to the
44 subscriber of cancellation or nonrenewal of a subscription contract shall be
45 mailed to the named subscriber at least forty-five days before the effective

1 date of such cancellation or nonrenewal. The notice shall include or be
2 accompanied by a statement in writing of the reasons for such action by the
3 corporation. Failure of the corporation to comply with this subsection shall
4 invalidate any cancellation or nonrenewal except a cancellation or nonrenewal
5 for nonpayment of premium.

6 H. A contract that provides coverage for surgical services for a
7 mastectomy shall also provide coverage incidental to the patient's covered
8 mastectomy for surgical services for reconstruction of the breast on which
9 the mastectomy was performed, surgery and reconstruction of the other breast
10 to produce a symmetrical appearance, prostheses, treatment of physical
11 complications for all stages of the mastectomy, including lymphedemas, and at
12 least two external postoperative prostheses subject to all of the terms and
13 conditions of the policy.

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

19 1. A baseline mammogram for a woman from age thirty-five to
20 thirty-nine.

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

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

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

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

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

31 3. All preexisting conditions and other limitations have been met by
32 the insured.

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

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

1 confidential information such as the identity of the natural parent. The
2 insured adopting parents shall notify their insurer of the existence and
3 extent of the other coverage.

4 L. The director may disapprove any contract if the benefits provided
5 in the form of such contract are unreasonable in relation to the premium
6 charged.

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

- 10 1. Conditions of eligibility.
- 11 2. Coverage of dependents.
- 12 3. Preexisting conditions.
- 13 4. Termination of insurance.
- 14 5. Probationary periods.
- 15 6. Limitations.
- 16 7. Exceptions.
- 17 8. Reductions.
- 18 9. Elimination periods.
- 19 10. Requirements for replacement.
- 20 11. Any other condition of subscription contracts.

21 N. Any contract that provides maternity benefits shall not restrict
22 benefits for any hospital length of stay in connection with childbirth for
23 the mother or the newborn child to less than forty-eight hours following a
24 normal vaginal delivery or ninety-six hours following a cesarean section.
25 The contract shall not require the provider to obtain authorization from the
26 corporation for prescribing the minimum length of stay required by this
27 subsection. The contract may provide that an attending provider in
28 consultation with the mother may discharge the mother or the newborn child
29 before the expiration of the minimum length of stay required by this
30 subsection. The corporation shall not:

- 31 1. Deny the mother or the newborn child eligibility or continued
32 eligibility to enroll or to renew coverage under the terms of the contract
33 solely for the purpose of avoiding the requirements of this subsection.
- 34 2. Provide monetary payments or rebates to mothers to encourage those
35 mothers to accept less than the minimum protections available pursuant to
36 this subsection.
- 37 3. Penalize or otherwise reduce or limit the reimbursement of an
38 attending provider because that provider provided care to any insured under
39 the contract in accordance with this subsection.
- 40 4. Provide monetary or other incentives to an attending provider to
41 induce that provider to provide care to an insured under the contract in a
42 manner that is inconsistent with this subsection.
- 43 5. Except as described in subsection O of this section, restrict
44 benefits for any portion of a period within the minimum length of stay in a

1 manner that is less favorable than the benefits provided for any preceding
2 portion of that stay.

3 0. Nothing in subsection N of this section:

4 1. Requires a mother to give birth in a hospital or to stay in the
5 hospital for a fixed period of time following the birth of the child.

6 2. Prevents a corporation from imposing deductibles, coinsurance or
7 other cost sharing in relation to benefits for hospital lengths of stay in
8 connection with childbirth for a mother or a newborn child under the
9 contract, except that any coinsurance or other cost sharing for any portion
10 of a period within a hospital length of stay required pursuant to subsection
11 N of this section shall not be greater than the coinsurance or cost sharing
12 for any preceding portion of that stay.

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

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

19 1. Blood glucose monitors.

20 2. Blood glucose monitors for the legally blind.

21 3. Test strips for glucose monitors and visual reading and urine
22 testing strips.

23 4. Insulin preparations and glucagon.

24 5. Insulin cartridges.

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

26 7. Injection aids.

27 8. Insulin cartridges for the legally blind.

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

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

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

33 12. Any other device, medication, equipment or supply for which
34 coverage is required under medicare from and after January 1, 1999. The
35 coverage required in this paragraph is effective six months after the
36 coverage is required under medicare.

37 Q. Nothing in subsection P of this section prohibits a medical service
38 corporation, a hospital service corporation or a hospital, medical, dental
39 and optometric service corporation from imposing deductibles, coinsurance or
40 other cost sharing in relation to benefits for equipment or supplies for the
41 treatment of diabetes.

42 R. Any hospital or medical service contract that provides coverage for
43 prescription drugs shall not limit or exclude coverage for any prescription
44 drug prescribed for the treatment of cancer on the basis that the
45 prescription drug has not been approved by the United States food and drug

1 administration for the treatment of the specific type of cancer for which the
2 prescription drug has been prescribed, if the prescription drug has been
3 recognized as safe and effective for treatment of that specific type of
4 cancer in one or more of the standard medical reference compendia prescribed
5 in subsection S of this section or medical literature that meets the criteria
6 prescribed in subsection S of this section. The coverage required under this
7 subsection includes covered medically necessary services associated with the
8 administration of the prescription drug. This subsection does not:

9 1. Require coverage of any prescription drug used in the treatment of
10 a type of cancer if the United States food and drug administration has
11 determined that the prescription drug is contraindicated for that type of
12 cancer.

13 2. Require coverage for any experimental prescription drug that is not
14 approved for any indication by the United States food and drug
15 administration.

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

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

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

26 6. Prohibit the use of deductibles, coinsurance, copayments or other
27 cost sharing in relation to drug benefits and related medical benefits
28 offered.

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

30 1. The acceptable standard medical reference compendia are the
31 following:

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

34 (b) The national comprehensive cancer network drugs and biologics
35 compendium.

36 (c) Thomson Micromedex compendium DrugDex.

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

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

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

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

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

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

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

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

42 V. The metabolic disorders triggering medical foods coverage under
43 this section shall:

44 1. Be part of the newborn screening program prescribed in section
45 36-694.

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

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

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

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

15 X. A hospital service corporation or medical service corporation shall
16 cover at least fifty per cent of the cost of medical foods prescribed to
17 treat inherited metabolic disorders and covered pursuant to this section. A
18 hospital service corporation or medical service corporation may limit the
19 maximum annual benefit for medical foods under this section to five thousand
20 dollars, which applies to the cost of all prescribed modified low protein
21 foods and metabolic formula.

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

24 1. If the contract provides coverage for prescription drugs, the
25 contract shall provide coverage for any prescribed drug or device that is
26 approved by the United States food and drug administration for use as a
27 contraceptive. A corporation may use a drug formulary, multitiered drug
28 formulary or list but that formulary or list shall include oral, implant and
29 injectable contraceptive drugs, intrauterine devices and prescription barrier
30 methods if the corporation does not impose deductibles, coinsurance,
31 copayments or other cost containment measures for contraceptive drugs that
32 are greater than the deductibles, coinsurance, copayments or other cost
33 containment measures for other drugs on the same level of the formulary or
34 list.

35 2. If the contract provides coverage for outpatient health care
36 services, the contract shall provide coverage for outpatient contraceptive
37 services. For the purposes of this paragraph, "outpatient contraceptive
38 services" means consultations, examinations, procedures and medical services
39 provided on an outpatient basis and related to the use of approved United
40 States food and drug administration prescription contraceptive methods to
41 prevent unintended pregnancies.

42 3. This subsection does not apply to contracts issued to individuals
43 on a nongroup basis.

44 Z. Notwithstanding subsection Y of this section, a religiously
45 affiliated employer may require that the corporation provide a contract

1 without coverage for specific items or services required under subsection Y
2 of this section because providing or paying for coverage of the specific
3 items or services is contrary to the religious beliefs of the religiously
4 affiliated employer offering the plan. If a religiously affiliated employer
5 objects to providing coverage for specific items or services required under
6 subsection Y of this section, a written affidavit shall be filed with the
7 corporation stating the objection. On receipt of the affidavit, the
8 corporation shall issue to the religiously affiliated employer a contract
9 that excludes coverage for specific items or services required under
10 subsection Y of this section. The corporation shall retain the affidavit for
11 the duration of the contract and any renewals of the contract. This
12 subsection shall not exclude coverage for prescription contraceptive methods
13 ordered by a health care provider with prescriptive authority for medical
14 indications other than for contraceptive, abortifacient, abortion or
15 sterilization purposes. A religiously affiliated employer offering the plan
16 may state religious beliefs in its affidavit and may require the subscriber
17 to first pay for the prescription and then submit a claim to the hospital
18 service corporation, medical service corporation or hospital, medical, dental
19 and optometric service corporation along with evidence that the prescription
20 is not for a purpose covered by the objection. A hospital service
21 corporation, medical service corporation or hospital, medical, dental and
22 optometric service corporation may charge an administrative fee for handling
23 these claims.

24 AA. Subsection Z of this section does not authorize a religiously
25 affiliated employer to obtain an employee's protected health information or
26 to violate the health insurance portability and accountability act of 1996
27 (P.L. 104-191; 110 Stat. 1936) or any federal regulations adopted pursuant to
28 that act.

29 BB. Subsection Z of this section shall not be construed to restrict or
30 limit any protections against employment discrimination that are prescribed
31 in federal or state law.

32 CC. For the purposes of:

33 1. This section:

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

37 (b) "Medical foods" means modified low protein foods and metabolic
38 formula.

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

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

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

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

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

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

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

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

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

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

21 2. Subsection E of this section, "child", for purposes of initial
22 coverage of an adopted child or a child placed for adoption but not for
23 purposes of termination of coverage of such child, means a person under
24 eighteen years of age.

25 3. Subsections Z and AA of this section, "religiously affiliated
26 employer" means either:

27 (a) An entity for which all of the following apply:

28 (i) The entity primarily employs persons who share the religious
29 tenets of the entity.

30 (ii) The entity primarily serves persons who share the religious
31 tenets of the entity.

32 (iii) The entity is a nonprofit organization as described in section
33 6033(a)(3)(A)(i) or (iii) of the internal revenue code of 1986, as amended.

34 (b) An entity whose articles of incorporation clearly state that it is
35 a religiously motivated organization and whose religious beliefs are central
36 to the organization's operating principles.

37 Sec. 52. Section 20-1341, Arizona Revised Statutes, is amended to
38 read:

39 20-1341. Scope of article

40 Nothing in this article shall apply to or affect:

41 1. Any policy of liability or workers' compensation insurance with or
42 without supplementary expense coverage therein.

43 2. Any group or blanket policy.

44 3. Life insurance, endowment or annuity contracts, or contracts
45 supplemental thereto which contain only such provisions relating to

1 disability insurance as provide additional benefits in case of death or
2 dismemberment or loss of sight by accident, or as operate to safeguard such
3 contracts against lapse or to give a special surrender value or special
4 benefit or an annuity in the event that the insured or annuitant ~~becomes~~
5 ~~totally and permanently disabled~~ DEVELOPS A TOTAL AND PERMANENT DISABILITY,
6 as defined by the contract or supplemental contract.

7 4. Reinsurance.

8 Sec. 53. Section 20-1342.01, Arizona Revised Statutes, is amended to
9 read:

10 20-1342.01. Children with disabilities

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

25 Sec. 54. Section 20-1346, Arizona Revised Statutes, is amended to
26 read:

27 20-1346. Time limit on defenses

28 A. There shall be a provision as follows: "Time limit on certain
29 defenses: (a) After two years from the date of issue of this policy no
30 misstatements, except fraudulent misstatements, made by the applicant in the
31 application for such policy shall be used to void the policy or to deny a
32 claim for loss incurred or disability (as defined in the policy) commencing
33 after the expiration of such two year period."

34 "(b) No claim for loss incurred or disability (as defined in the
35 policy) commencing after two years from the date of issue of this policy
36 shall be reduced or denied on the ground that a disease or physical condition
37 not excluded from coverage by name or specific description effective on the
38 date of loss had existed prior to the effective date of coverage of this
39 policy."

40 B. The policy provision set forth in (a) of subsection A of this
41 section shall not be so construed as to affect any legal requirement for
42 avoidance of a policy or denial of a claim during such initial two year
43 period, nor to limit the application of sections 20-1358, 20-1359, 20-1360,
44 20-1361 and 20-1362 in the event of misstatement with respect to age or
45 occupation or other insurance.

1 C. A policy which the insured has the right to continue in force
2 subject to its terms by the timely payment of premium until at least age
3 fifty or, in the case of a policy issued after age forty-four, for at least
4 five years from its date of issue, may contain in lieu of (a) of subsection A
5 of this section the following provision, from which the clause in parentheses
6 may be omitted at the insurer's option, under the caption
7 "Incontestable:" "After this policy has been in force for a period of two
8 years during the lifetime of the insured (excluding any period during which
9 the insured is ~~disabled~~ A PERSON WITH A DISABILITY), it shall become
10 incontestable as to the statements contained in the application."

11 Sec. 55. Section 20-1407, Arizona Revised Statutes, is amended to
12 read:

13 20-1407. Children with disabilities

14 A group hospital or medical expense insurance policy delivered or
15 issued for delivery in this state more than one hundred twenty days after
16 August 27, 1977 that provides that coverage of a dependent child of an
17 employee or other member of the covered group shall terminate on attainment
18 of the limiting age for dependent children specified in the policy, shall
19 also provide in substance that attainment of such limiting age shall not
20 operate to terminate the coverage of that child while the child is and
21 continues to be both incapable of self-sustaining employment by reason of
22 intellectual disability or physical ~~handicap~~ DISABILITY and chiefly dependent
23 on the employee or member for support and maintenance. Proof of such
24 incapacity and dependency shall be furnished to the insurer by the employee
25 or member 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. 56. Section 20-1603, Arizona Revised Statutes, is amended to
30 read:

31 20-1603. Definitions

32 In this article, unless the context otherwise requires:

33 1. "Consumer credit insurance" means any one or a combination of the
34 following:

- 35 (a) Credit life insurance.
- 36 (b) Credit disability insurance.
- 37 (c) Credit unemployment insurance.

38 2. "Credit disability insurance" means insurance on a debtor to
39 provide indemnity for payments becoming due or outstanding on a specific loan
40 or other credit transaction while the debtor is ~~disabled~~ A PERSON WITH A
41 DISABILITY as defined in the policy or certificate.

42 3. "Credit life insurance" means insurance on the life of a debtor
43 pursuant to or in connection with a specific loan or other credit transaction
44 that provides for the satisfaction of a debt, in whole or in part, on the
45 death of an insured debtor.

1 4. "Credit property insurance" has the same meaning prescribed in
2 section 20-1621.01.

3 5. "Credit unemployment insurance" means casualty insurance on a
4 debtor to provide indemnity for payments or debt becoming due on a specific
5 loan or other credit transaction while the debtor is involuntarily unemployed
6 as defined in the policy.

7 6. "Creditor" means the lender of money or vendor or lessor of goods,
8 services, property, rights or privileges, including a lessor under a lease
9 intended as a security, where payment is arranged through a credit
10 transaction. "Creditor" means also any successor to the right, title or
11 interest of any such lender, vendor or lessor or an affiliate, associate or
12 subsidiary of any of them or any director, officer or employee of any of them
13 or any other person in any way associated with any of them.

14 7. "Debtor" means a borrower of money or a person possessing a
15 commitment for a loan of certain funds or a purchaser or lessee of goods,
16 services, property, rights or privileges for which payment is arranged
17 through a credit transaction.

18 8. "Director" means the director of insurance.

19 9. "Gross debt" means the sum of the remaining payments that a debtor
20 owes a creditor.

21 10. "Identifiable charge" means a charge for a type of consumer credit
22 insurance that is made to debtors having that insurance and not made to
23 debtors not having the insurance, and that includes a charge for insurance
24 that is disclosed in the credit or other instrument furnished to the debtor
25 that states the financial elements of the credit transaction and any
26 difference in the finance, interest, service or other similar charge made to
27 debtors in like circumstances except for the insured or noninsured status of
28 the debtor or of the property used as security for the credit transaction.

29 11. "Loan" means an advance or commitment of certain funds pursuant to
30 a repayment agreement.

31 12. "Net debt" means the amount necessary to liquidate a debt in a
32 single lump sum payment, excluding all unearned interest and other unearned
33 finance charges.

34 Sec. 57. Section 20-1631, Arizona Revised Statutes, is amended to
35 read:

36 20-1631. Definition of motor vehicle; cancellation of or
37 failure to renew coverage; limitations; limitation
38 of liability; exceptions; insurance producers

39 A. In this article, unless the context otherwise requires, "motor
40 vehicle" means a licensed land, motor-driven vehicle but does not mean:

41 1. A private passenger or station wagon type vehicle used as a public
42 or livery conveyance or rented to others.

43 2. Any other four-wheel motor vehicle of a load capacity of fifteen
44 hundred pounds or less that is used in the business of transporting

1 passengers for hire, used in business primarily to transport property or
2 equipment, used as a public or livery conveyance or rented to others.

3 3. Any motor vehicle with a load capacity of more than fifteen hundred
4 pounds.

5 B. A motor vehicle used as a public or livery conveyance or rented to
6 others does not include a motor vehicle used in the course of volunteer work
7 for a tax-exempt organization as described in section 43-1201, **SUBSECTION A**,
8 paragraph 4.

9 C. An insurer shall not cancel or refuse to renew a motor vehicle
10 insurance policy solely because of the location of residence, age, race,
11 color, religion, sex, national origin or ancestry of anyone who is an
12 insured.

13 D. An insurer shall not issue a motor vehicle insurance policy in this
14 state unless the cancellation and renewal conditions of the policy or the
15 endorsement on the policy includes the limitations required by this
16 section. After a policy issued in this state has been in effect for sixty
17 days, or if the policy is a renewal, effective immediately, the company shall
18 not exercise its right to cancel or fail to renew the insurance afforded
19 under the policy unless:

20 1. The named insured fails to discharge when due any of the
21 obligations of the named insured in connection with the payment of premium
22 for this policy or any installment of the premium.

23 2. The insurance was obtained through fraudulent misrepresentation.

24 3. The named insured, any person who resides in the same household as
25 the named insured and customarily operates a motor vehicle insured under the
26 policy or any other person who regularly and frequently operates a motor
27 vehicle insured under the policy:

28 (a) Has had the person's driver license suspended or revoked during
29 the policy period.

30 (b) ~~Becomes permanently disabled~~ **DEVELOPS A PERMANENT DISABILITY**,
31 either physically or mentally, and such individual does not produce a
32 certificate from a physician or a registered nurse practitioner testifying to
33 such person's ability to operate a motor vehicle.

34 (c) Is or has been convicted during the thirty-six months immediately
35 preceding the effective date of the policy or during the policy period of:

36 (i) Criminal negligence resulting in death, homicide or assault and
37 arising out of the operation of a motor vehicle.

38 (ii) Operating a motor vehicle while in an intoxicated condition or
39 while under the influence of drugs.

40 (iii) Leaving the scene of an accident.

41 (iv) Making false statements in an application for a driver license.

42 (v) Reckless driving.

43 4. The insurer is placed in rehabilitation or receivership by the
44 insurance supervisory official in its state of domicile or by a court of

1 competent jurisdiction or the director has suspended the insurer's
 2 certificate of authority based on its financially hazardous condition.

3 5. The named insured, any person who resides in the same household as
 4 the named insured and customarily operates a motor vehicle insured under the
 5 policy or any other person who regularly and frequently operates a motor
 6 vehicle insured under the policy uses a motor vehicle rated or insured under
 7 the policy as a private passenger motor vehicle regularly and frequently for
 8 commercial purposes.

9 6. The director determines that the continuation of the policy would
 10 place the insurer in violation of the laws of this state or would jeopardize
 11 the solvency of the insurer.

12 7. If the insured and the insured's family members are eligible for
 13 insurance based solely on the insured's employment with the insurer,
 14 employment of the insured with that insurer is terminated and the insurer
 15 exercises its right to nonrenew the policy within twelve months following the
 16 insured's termination of employment.

17 E. In addition to the authorization to fail to renew insurance
 18 provided by subsection D of this section, an insurer may exercise its right
 19 to fail to renew a motor vehicle insurance policy pursuant to this
 20 subsection. An insurer shall provide notice of the nonrenewal to the named
 21 insured as prescribed by section 20-1632 at least forty-five days before the
 22 nonrenewal. A named insured who disputes the nonrenewal of the named
 23 insured's policy may file an objection with the director pursuant to section
 24 20-1633. An insurer shall not fail to renew more than one-half of one per
 25 cent of its policies annually pursuant to this subsection. An insurer may
 26 fail to renew a motor vehicle insurance policy if the named insured, any
 27 person who resides in the same household as the named insured and who
 28 customarily operates a motor vehicle insured under the policy or any other
 29 person who regularly and frequently operates a motor vehicle insured under
 30 the policy has had at any time during the thirty-six months immediately
 31 before the notice of nonrenewal three or more at-fault accidents under any
 32 motor vehicle insurance policy issued by this insurer in which the property
 33 damage paid by the insurer for each accident that occurred prior to January
 34 1, 2000 is more than one thousand eight hundred dollars. For accidents
 35 occurring on or after January 1, 2000, the department of insurance shall
 36 annually adjust and publish, to the nearest ten dollars, the threshold amount
 37 of property damages in this subsection by the percentage change in the all
 38 items component of the consumer price index for all urban consumers of the
 39 United States department of labor, bureau of labor statistics. The insurer
 40 shall not exercise its right to fail to renew the insurance under this
 41 subsection unless the same individual has had all the accidents that make the
 42 policy subject to nonrenewal under this subsection. The insurer shall not
 43 exercise its right to fail to renew a motor vehicle insurance policy pursuant
 44 to this subsection due to the accident record of the named insured if the
 45 named insured has been insured for standard automobile bodily injury coverage

1 for at least ten consecutive years with the same insurer prior to the most
2 recent accident that makes the policy subject to nonrenewal under this
3 subsection. For the purposes of this subsection, "at-fault" means the
4 insured is at least fifty per cent responsible for the accident.

5 F. The company shall not cancel or fail to renew the insurance when a
6 person other than the named insured has violated subsection D, paragraph 3 of
7 this section, or fail to renew the insurance pursuant to subsection E of this
8 section due to the driving record of an individual other than the named
9 insured, if the named insured in writing agrees to exclude as insured the
10 person by name when operating a motor vehicle and further agrees to exclude
11 coverage to the named insured for any negligence that may be imputed by law
12 to the named insured arising out of the maintenance, operation or use of a
13 motor vehicle by the excluded person. The written agreement that excludes
14 coverage under a policy for a named individual is effective for each renewal
15 of the policy by the insurer and remains in effect until the insurer agrees
16 in writing to provide coverage for the named individual who was previously
17 excluded from coverage.

18 G. This article does not apply to any policy that has been in effect
19 less than sixty days at the time notice of cancellation is mailed or
20 delivered by the insurer unless the policy is a renewal policy, or to
21 policies:

22 1. Insuring any motor vehicle other than a private passenger motor
23 vehicle as defined in section 20-117.

24 2. Insuring the motor vehicle hazard of garages, motor vehicle sales
25 agencies, repair shops, service stations or public parking places.

26 3. Providing insurance only on an excess basis.

27 H. If a consumer purchases motor vehicle insurance coverage from an
28 insurance producer licensed in this state, the insurance producer that owns
29 the policy expiration shall remain the insurance producer of record for that
30 insured. In the event the insurer terminates the insurance producer's
31 contract, the insurance producer shall continue to provide customary services
32 to the insured. The insurer shall provide the insurance producer with a
33 minimum degree of authority necessary to provide customary services to the
34 insured and shall provide the same level of compensation for these services
35 that were in effect prior to the termination of the insurance producer
36 contract.

37 I. Subsection H of this section shall not apply if one or more of the
38 following conditions exist:

39 1. The insurance producer of record has had its license suspended or
40 revoked by the department.

41 2. The insurance producer of record is indebted to the insurer.

42 3. The insured has supplied the insurer with a written request that
43 its insurance producer of record be changed to another insurance producer of
44 the insurer.

1 4. The insurance producer of record has authorized transfer of this
2 account to another licensed insurance producer of the insurer.

3 5. The director has determined after a public hearing that
4 continuation of this relationship is not in the best interest of the public.

5 6. The insurance producer of record is under an exclusive contract or
6 contract requiring the insurance producer to submit all eligible business to
7 an insurer or group of insurers under a common management.

8 J. Subsection H of this section shall not apply to any transaction in
9 which the expiration of the policies is owned by the insurer.

10 K. Notwithstanding any law to the contrary, the issuance at renewal of
11 revised policy provisions to modify an existing policy by adding coverages or
12 policy provisions, modifying coverages or policy provisions, or eliminating
13 coverages or policy provisions is not a nonrenewal or cancellation of the
14 policy if the modification of a basic coverage does not eliminate the
15 essential benefit of that basic coverage. If the modification of the basic
16 coverage eliminates the essential benefit of the basic coverage, the director
17 shall order the insurer to remove the modification from the policy. This
18 subsection does not allow the insurer, without the written consent of the
19 insured, to eliminate the basic coverages of the policy or to reduce the
20 monetary limits of any of the basic coverages of the policy that were
21 selected and agreed on. This subsection does not limit a policyholder from
22 continuing to renew uninsured or underinsured motorist coverage pursuant to
23 section 20-259.01. For the purposes of this subsection, "basic coverage"
24 means any of the following:

- 25 1. Bodily injury coverage.
- 26 2. Property damage coverage.
- 27 3. Uninsured motorist coverage.
- 28 4. Underinsured motorist coverage.
- 29 5. Medical payments coverage.
- 30 6. Comprehensive coverage.
- 31 7. Collision coverage.

32 L. For the purposes of this section, "fail to renew" or "nonrenewal"
33 does not include the issuance and delivery of a new policy within the same
34 insurer or an insurer under the same ownership or management as the original
35 insurer as provided in this subsection. An insurer may transfer up to one
36 per cent of its policies to an affiliated insurer within one calendar year if
37 under a policy to be transferred one or more of the insureds that are insured
38 under the policy have individually within the past thirty-six months had two
39 or more at-fault accidents under any motor vehicle insurance policy issued by
40 this insurer in which the property damage paid by the insurer for each
41 accident exceeded one thousand five hundred dollars or individually have had
42 three or more moving violations. Moving violations for which an insured
43 completes an approved traffic school program shall not be considered as a
44 moving violation under this section. A company shall not transfer a policy
45 if a named insured agrees in writing to exclude as an insured a person or

1 persons who each individually meet the criteria for transfer pursuant to this
2 subsection and further agrees to exclude coverage for any negligence that may
3 be imputed by law to the named insured arising out of the maintenance,
4 operation or use of a motor vehicle by such excluded person or persons. An
5 insurer shall transfer only those individuals responsible for the at-fault
6 accidents or moving violations, and the excluded or transferred insured's
7 driving record shall not be used in determining rates, surcharges or premiums
8 for the nonexcluded or nontransferred insured. The one per cent limit set
9 forth in this subsection shall not apply to transfers of policies from the
10 original insurer to another insurer under the same ownership or management as
11 the original insurer if the rates charged by the other insurer are the same
12 as or lower than the rates charged by the original insurer. No insurer shall
13 transfer policyholders because of their location of residence, age, race,
14 color, religion, sex, national origin or ancestry. Transfers by an insurer
15 pursuant to this subsection shall not be construed to permit a new
16 unrestricted sixty day period for cancellation or nonrenewal.

17 M. Except as provided in this subsection, an insurer shall not refuse
18 to renew a policy until after August 31, 1998, based on an insured's failure
19 to maintain membership in a bona fide association, until both the insurer and
20 bona fide association have complied with this subsection and shall not refuse
21 to renew any coverage continuously in effect before September 1, 1998,
22 subject to all the following:

23 1. In addition to any other reason provided in this section, an
24 insurer may refuse to renew an insurance policy issued pursuant to this
25 article if all of the following conditions apply:

26 (a) The insurer clearly discloses to the applicant and the insured in
27 the application for insurance and insurance policy that both the payment of
28 dues and current membership in the bona fide association are prerequisites to
29 obtaining or renewing the insurance.

30 (b) Any money paid to the bona fide association as a membership fee:

31 (i) Is not used by the insurer directly or indirectly to defray any
32 costs or expenses in connection with the sale or purchase of the insurance.

33 (ii) Is set independently of any factor used by the insurer to make
34 any judgment or determination about the eligibility of any individual,
35 including the member, an employee of a member or a dependent of a member, to
36 purchase or renew the insurance.

37 (c) The bona fide association has filed a certification with the
38 director verifying the eligibility of the insurer to refuse to renew an
39 insurance policy based on membership in the bona fide association.

40 2. To qualify as a bona fide association pursuant to this subsection,
41 the association shall meet all of the requirements of this paragraph. The
42 association shall file a statement with the director at least thirty days
43 before the commencement of the offer or sale of insurance as provided by this
44 subsection verifying that the association meets the requirements of this
45 paragraph. The association shall update the filing required by this

1 paragraph at least thirty days before the effective date of any material
2 change in the information contained in the statement, and shall file a
3 separate notice with the director if the insurance described in the statement
4 is no longer available through the association. The statement shall include
5 the following information:

6 (a) That the association has been in active existence for at least
7 five consecutive years immediately before the filing of the statement.

8 (b) That the association has been formed and maintained in good faith
9 for purposes other than obtaining or providing insurance and does not
10 condition membership in the association on the purchase of insurance.

11 (c) That the association has articles of incorporation and bylaws or
12 other similar governing documents.

13 (d) That the association does not condition membership in the
14 association or set membership fees on the eligibility of any individual,
15 including the member, an employee of the member or a dependent of the member,
16 to purchase or renew the insurance, or on any factor that the insurer could
17 not lawfully consider when setting rates.

18 (e) That the association has a relationship with a specific insurer or
19 insurers and identifies the insurer or insurers.

20 3. Membership fees collected by the bona fide association are not
21 premiums of the insurer that issued the coverage unless the bona fide
22 association:

23 (a) Uses any portion of the membership fees directly or indirectly to
24 defray any costs or expenses in connection with the sale or purchase of the
25 insurance.

26 (b) Sets or adjusts membership fees for any member of the bona fide
27 association based on any factor used by the insurer that issues the insurance
28 to make any judgment or determination about the eligibility of any
29 individual, including the member, an employee of the member or a dependent of
30 the member, to purchase or renew the insurance.

31 4. If the membership fees constitute premiums pursuant to paragraph 3
32 of this subsection, an insurer shall not refuse to renew a policy as
33 otherwise permitted by this subsection.

34 Sec. 58. Section 20-2501, Arizona Revised Statutes, is amended to
35 read:

36 20-2501. Definitions; scope

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

38 1. "Adverse decision" means a utilization review determination by the
39 utilization review agent that a requested service or claim for service is not
40 a covered service or is not medically necessary under the plan if that
41 determination results in a documented denial or nonpayment of the service or
42 claim.

43 2. "Benefits based on the health status of the insured" means a
44 contract of insurance to pay a fixed benefit amount, without regard to the

1 specific services received, to a policyholder who meets certain eligibility
2 criteria based on health status including:

3 (a) A disability income insurance policy that pays a fixed daily,
4 weekly or monthly benefit amount to an insured who is deemed ~~disabled~~ A
5 PERSON WITH A DISABILITY as defined by the policy terms.

6 (b) A hospital indemnity policy that pays a fixed daily benefit during
7 hospital confinement.

8 (c) A disability insurance policy that pays a fixed daily, weekly or
9 monthly benefit amount to an insured who is certified by a licensed health
10 care professional as chronically ill as defined by the policy terms.

11 (d) A disability insurance policy that pays a fixed daily, weekly or
12 monthly benefit amount to an insured who suffers from a prolonged physical
13 illness, disability or cognitive disorder as defined by the policy terms.

14 3. "Claim" means a request for payment for a service already provided.
15 Claim does not include:

16 (a) Claim adjustments for usual and customary charges for a service or
17 coordination of benefits between health care insurers.

18 (b) A request for payment under a policy or contract that pays
19 benefits based on the health status of the insured and that does not
20 reimburse the cost of or provide covered services.

21 4. "Covered service" means a service that is included in a policy,
22 evidence of coverage or similar document that specifies which services,
23 insurance or other benefits are included or covered.

24 5. "Denial" means a direct or indirect determination regarding all or
25 part of a request for any service or a direct determination regarding a claim
26 that may trigger a request for review or reconsideration. Denial does not
27 include:

28 (a) Enforcement of a health care insurer's deductibles, copayments or
29 coinsurance requirements or adjustments for usual and customary charges,
30 deductibles, copayments or coinsurance requirements for a service or
31 coordination of benefits between health care insurers.

32 (b) The rejection of a request for payment under a policy or contract
33 that pays benefits based on the health status of the insured and that does
34 not reimburse the cost of or provide covered services.

35 6. "Department" means the department of insurance.

36 7. "Director" means the director of the department of insurance.

37 8. "Health care insurer" means a disability insurer, group disability
38 insurer, blanket disability insurer, health care services organization,
39 hospital service corporation, prepaid dental plan organization, medical
40 service corporation, dental service corporation or optometric service
41 corporation or a hospital, medical, dental and optometric service
42 corporation.

43 9. "Indirect denial" means a failure to communicate authorization or
44 nonauthorization to the member by the utilization review agent within ten

1 business days after the utilization review agent receives the request for a
2 covered service.

3 10. "Provider" means the physician or other licensed practitioner
4 identified to the utilization review agent as having primary responsibility
5 for providing care, treatment and services rendered to a patient.

6 11. "Service" means a diagnostic or therapeutic medical or health care
7 service, benefit or treatment.

8 12. "Utilization review" means a system for reviewing the appropriate
9 and efficient allocation of inpatient hospital resources, inpatient medical
10 services and outpatient surgery services that are being given or are proposed
11 to be given to a patient, and of any medical, surgical and health care
12 services or claims for services that may be covered by a health care insurer
13 depending on determinable contingencies, including without limitation
14 outpatient services, in-office consultations with medical specialists,
15 specialized diagnostic testing, mental health services, emergency care and
16 inpatient and outpatient hospital services. Utilization review does not
17 include elective requests for the clarification of coverage.

18 13. "Utilization review agent" means a person or entity that performs
19 utilization review. For purposes of article 2 of this chapter, utilization
20 review agent has the same meaning prescribed in section 20-2530. For purposes
21 of this chapter, utilization review agent does not include:

- 22 (a) A governmental agency.
- 23 (b) An agent that acts on behalf of the governmental agency.
- 24 (c) An employee of a utilization review agent.

25 14. "Utilization review plan" means a summary description of the
26 utilization review guidelines, protocols, procedures and written standards
27 and criteria of a utilization review agent.

28 B. For the purposes of this chapter, utilization review by an
29 optometric service corporation applies only to nonsurgical medical and health
30 care services.

31 Sec. 59. Section 20-3211, Arizona Revised Statutes, is amended to
32 read:

33 20-3211. Contract requirements; execution; rescission;
34 definition

35 A. A provider entering into a life settlement contract with any owner
36 of a policy in which the insured is terminally ill shall first obtain the
37 following:

38 1. If the owner is the insured, a written statement from a licensed
39 attending physician that the owner is of sound mind and under no constraint
40 or undue influence to enter into a settlement contract.

41 2. A document in which the insured consents to the release of the
42 insured's medical records to a provider, settlement broker or insurance
43 producer and, if the policy was issued less than two years from the date of
44 application for a settlement contract, to the insurance company that issued
45 the policy.

1 B. The insurer shall respond to a request for verification of coverage
2 submitted by a provider, settlement broker or life insurance producer not
3 later than thirty calendar days from the date the request is received. The
4 request for verification of coverage must be made on a form approved by the
5 director. The insurer shall complete and issue the verification of coverage
6 or indicate in which respects it is unable to respond. In the insurer's
7 response, the insurer shall indicate whether, based on the medical evidence
8 and documents provided, the insurer intends to pursue an investigation at
9 this time regarding the validity of the insurance contract.

10 C. Before or at the time of execution of the settlement contract, the
11 provider shall obtain a witnessed document in which the owner consents to the
12 settlement contract, represents that the owner has a full and complete
13 understanding of the settlement contract and a full and complete
14 understanding of the benefits of the policy, acknowledges that the owner is
15 entering into the settlement contract freely and voluntarily and, for persons
16 with a chronic illness or terminal illness or condition, acknowledges that
17 the insured has a chronic illness or a terminal illness or condition and that
18 the chronic illness or the terminal illness or condition was diagnosed after
19 the policy was issued.

20 D. The insurer shall not unreasonably delay effecting change of
21 ownership or beneficiary with any life settlement contract lawfully entered
22 into in this state or with a resident of this state.

23 E. If a life settlement broker or life insurance producer performs any
24 of these activities required of the provider, the provider is deemed to have
25 fulfilled the requirements of this section.

26 F. If a broker performs the verification of coverage activities
27 required of the provider, the provider is deemed to have fulfilled the
28 requirements of this section.

29 G. Within twenty days after an owner executes the life settlement
30 contract, the provider shall give written notice to the insurer that issued
31 the insurance policy that the policy is subject to a life settlement
32 contract. The notice shall be accompanied by the documents required by
33 section 20-3204, subsection C.

34 H. All medical information solicited or obtained by any licensee is
35 subject to any applicable law relating to confidentiality of medical
36 information.

37 I. All life settlement contracts entered into in this state shall
38 provide that the owner may rescind the contract on or before fifteen days
39 after the date it is executed by all parties and the owner has received all
40 required disclosures. Rescission, if exercised by the owner, is effective
41 only if both notice of the rescission is given and the owner repays all
42 proceeds and any premiums, loans and loan interest paid on account of the
43 provider within the rescission period. If the insured dies during the
44 rescission period, the contract shall be deemed to have been rescinded

1 subject to repayment by the owner or the owner's estate of all proceeds and
2 any premiums, loans and loan interest to the provider.

3 J. Within three business days after receipt from the owner of
4 documents to effect the transfer of the insurance policy, the provider shall
5 pay the proceeds of the settlement to an escrow or trust account managed by a
6 trustee or escrow agent in a state or federally chartered financial
7 institution pending acknowledgment of the transfer by the issuer of the
8 policy. The trustee or escrow agent shall transfer the proceeds due to the
9 owner within three business days after acknowledgment of the transfer from
10 the insurer.

11 K. Failure to tender the life settlement contract proceeds to the
12 owner by the date disclosed to the owner renders the contract voidable by the
13 owner for lack of consideration until the time the proceeds are tendered to
14 and accepted by the owner. The failure to give written notice of the right
15 of rescission tolls the right of rescission until thirty days after the
16 written notice of the right of rescission has been given.

17 L. Any fee paid by a provider, party, individual or owner to a broker
18 in exchange for services provided to the owner pertaining to a life
19 settlement contract shall be computed as a percentage of the offer obtained
20 and not the face value of the policy. This section does not prohibit a
21 broker from reducing the broker's fee below this percentage if the broker so
22 chooses.

23 M. The broker shall disclose to the owner anything of value paid or
24 given to a broker that relates to a life settlement contract.

25 N. At any time before or at the time of the application for or
26 issuance of a policy or during a two-year period commencing with the date of
27 issuance of the policy, a person shall not enter into a life settlement
28 regardless of the date the compensation is to be provided and regardless of
29 the date the assignment, transfer, sale, devise, bequest or surrender of the
30 policy is to occur. This prohibition does not apply if:

31 1. The owner certifies to the provider that the policy was issued on
32 the owner's exercise of conversion rights arising out of a group or
33 individual policy if the total of the time covered under the conversion
34 policy plus the time covered under the prior policy is at least twenty-four
35 months. The time covered under a group policy must be calculated without
36 regard to a change in insurance carriers if the coverage has been continuous
37 and under the same group sponsorship.

38 2. The owner submits independent evidence to the provider that one or
39 more of the following conditions have been met within the two-year period:

40 (a) The owner or insured is terminally ill.

41 (b) The owner or insured disposes of ownership interests in a closely
42 held corporation pursuant to the terms of a buyout or other similar agreement
43 in effect at the time the insurance policy was initially issued.

44 (c) The owner's spouse dies.

45 (d) The owner divorces the owner's spouse.

1 (e) The owner retires from full-time employment.

2 (f) The owner becomes ~~physically or mentally disabled~~ A PERSON WITH A
3 PHYSICAL OR MENTAL DISABILITY and a physician determines that the disability
4 prevents the owner from maintaining full-time employment.

5 (g) On the application of a creditor of the owner, a court of
6 competent jurisdiction enters a final order, judgment or decree adjudicating
7 the owner bankrupt or insolvent, or approving a petition seeking
8 reorganization of the owner or appointing a receiver, trustee or liquidator
9 to all or a substantial part of the owner's assets.

10 O. The provider shall submit copies of the independent evidence
11 required by subsection N, paragraph 2 of this section when the provider
12 submits a request to the insurer for verification of coverage. The copies
13 shall be accompanied by a letter of attestation from the provider that the
14 copies are true and correct copies of the documents received by the provider.
15 This section does not prohibit an insurer from exercising its right to
16 contest the validity of any policy.

17 P. If the provider submits to the insurer a copy of independent
18 evidence as provided in subsection N, paragraph 2, subdivision (a) of this
19 section when the provider submits a request to the insurer to effect the
20 transfer of the policy to the provider, the copy shall be deemed to establish
21 that the settlement contract satisfies the requirements of this section.

22 Q. An insurer shall not:

23 1. Engage in any transaction, act or practice that restricts, limits
24 or impairs the lawful transfer of ownership, change of beneficiary or
25 assignment of a policy.

26 2. Make any false or misleading statement for the purpose of
27 dissuading an owner or insured from a lawful life settlement contract.

28 R. If there is more than one owner on a single policy and the owners
29 are residents of different states, the life settlement contract shall be
30 governed by the law of the state in which the owner having the largest
31 percentage ownership resides or, if the owners hold equal ownership, the
32 state of residence of one owner agreed on in writing by all of the owners of
33 the policy. The law of the state of the insured shall govern in the event
34 that equal owners fail to agree in writing on a state of residence for
35 jurisdictional purposes.

36 S. A provider from this state who enters into a life settlement
37 contract with an owner who is a resident of another state that has enacted
38 statutes or adopted rules governing life settlement contracts shall be
39 governed in the effectuation of that life settlement contract by the statutes
40 and rules of the owner's state of residence. If the state in which the owner
41 is a resident has not enacted statutes or rules governing life settlement
42 contracts, the provider shall give the owner notice that neither state
43 regulates the transaction on which the owner is entering. For transactions
44 in those states, the provider shall maintain all records required if the

1 transactions were executed in the state of residence. The forms used in
2 those states need not be approved by the department.

3 T. If there is a conflict in the laws that apply to an owner and a
4 purchaser in any individual transaction, the laws of the state that apply to
5 the owner shall take precedence and the provider shall comply with those
6 laws.

7 U. It is a fraudulent life settlement act and a violation of this
8 chapter for any person to do any of the following or any of the acts listed
9 in subsection X of this section:

10 1. Enter into a life settlement contract if a person knows or
11 reasonably should have known that the life insurance policy was obtained by
12 means of a false, deceptive or misleading application for the policy.

13 2. Engage in any transaction, practice or course of business if a
14 person knows or reasonably should have known that the intent was to avoid the
15 notice requirements of this section.

16 3. Engage in any fraudulent act or practice in connection with any
17 transaction relating to any settlement involving an owner who is a resident
18 of this state.

19 4. Fail to provide the disclosures or file the required reports with
20 the director as required by this chapter.

21 5. Issue, solicit or market the purchase of a new life insurance
22 policy for the sole purpose of, or with a primary emphasis on, settling the
23 policy.

24 6. With respect to any settlement contract or insurance policy and a
25 broker, knowingly solicit an offer from, effectuate a life settlement
26 contract with or make a sale to any provider, financing entity or related
27 provider trust that is controlling, controlled by or under common control
28 with a broker, unless the relationship has been fully disclosed to the owner.

29 7. With respect to any life settlement contract or insurance policy
30 and a provider, knowingly enter into a life settlement contract with an owner
31 if, in connection with a life settlement contract, anything of value will be
32 paid to a broker that is controlling, controlled by or under common control
33 with a provider or the financing entity or related provider trust that is
34 involved in a settlement contract, unless the relationship has been fully
35 disclosed to the owner.

36 8. With respect to a provider, enter into a life settlement contract
37 unless the life settlement promotional, advertising and marketing materials,
38 have been filed with the director as may be prescribed by rule. The
39 marketing materials shall not expressly reference that the insurance is free
40 for any period of time. The inclusion of any reference in the marketing
41 materials that would cause an owner to reasonably believe that the insurance
42 is free for any period of time is a violation of this chapter.

43 9. With respect to any life insurance producer, insurance company,
44 broker or provider, make any statement or representation to the applicant or
45 policyholder in connection with the sale or financing of a life insurance

1 policy to the effect that the insurance is free or without cost to the
2 policyholder for any period of time unless provided in the policy.

3 V. Life settlement contracts and applications for life settlement
4 contracts, regardless of the form of transmission, shall contain the
5 following statement or a substantially similar statement:

6 Any person who knowingly presents false information in an
7 application for insurance or for a life settlement contract may
8 be subject to criminal or civil liability.

9 W. The lack of a statement as required by subsection V of this section
10 does not constitute a defense in any prosecution for a fraudulent life
11 settlement act.

12 X. For the purposes of this section, "fraudulent life settlement act"
13 includes all of the following:

14 1. Acts or omissions committed by any person who, for the purpose of
15 depriving another of property or for pecuniary gain, commits or permits his
16 employees or agents to engage in acts, including the following:

17 (a) Presenting, causing to be presented or preparing with knowledge
18 and belief that it will be presented to or by a provider, premium finance
19 lender, broker, insurer, ~~OR~~ OR insurance producer or any other person, false
20 material information, or concealing material information as part of, in
21 support of or concerning a fact material to one or more of the following:

22 (i) An application for the issuance of a life settlement contract or
23 insurance policy.

24 (ii) The underwriting of a life settlement contract or insurance
25 policy.

26 (iii) A claim for payment or benefit pursuant to a life settlement
27 contract or insurance policy.

28 (iv) Premiums paid on an insurance policy.

29 (v) Payments and changes in ownership or beneficiary made according to
30 the terms of a life settlement contract or insurance policy.

31 (vi) The reinstatement or conversion of an insurance policy.

32 (vii) The solicitation, offer to enter into or effectuation of a life
33 settlement contract or insurance policy.

34 (viii) The issuance of written evidence of life settlement contracts
35 or insurance and any application for or the existence of or any payments
36 related to a loan secured directly or indirectly by any interest in a life
37 insurance policy.

38 (b) Employing any device, scheme or artifice to defraud in the
39 business of life settlements.

40 (c) Entering into any intentional practice or plan that involves
41 stranger originated life insurance as prescribed in section 20-443.02.

42 (d) Employing any device, scheme or artifice in violation of section
43 20-1104.

44 (e) If providing premium financing, receiving any proceeds, fees or
45 other consideration from the policy or owner of the policy that are in

1 addition to the amounts required to pay principal, interest and any costs or
2 expenses incurred by the lender or borrower in connection with the premium
3 finance agreement, except for a default, unless the default on such a loan or
4 transfer of the policy occurs pursuant to an agreement or understanding with
5 any other person for the purpose of evading regulation under this chapter.
6 Any payments, charges, fees or other amounts received by a person providing
7 premium financing in violation of this subdivision shall be remitted to the
8 original owner of the policy or to the original owner's estate if the
9 original owner is not living at the time of the determination of overpayment.

10 2. If a person does any of the following or permits the person's
11 employees or agents to do any of the following, in the furtherance of a fraud
12 or to prevent the detection of a fraud:

13 (a) Remove, conceal, alter, destroy or sequester from the director the
14 assets or records of a licensee or other person engaged in the business of
15 life settlements.

16 (b) Misrepresent or conceal the financial condition of a licensee,
17 financing entity, insurer or other person.

18 (c) Transact the business of life settlements in violation of any law
19 requiring a license, certificate of authority or other legal authority for
20 the transaction of the business of life settlements.

21 (d) File with the director or the chief insurance regulatory official
22 of another jurisdiction a document containing false information or otherwise
23 conceal information about a material fact from the director.

24 (e) Engage in embezzlement, theft, misappropriation or conversion of
25 moneys, funds, premiums, credits or other property of a provider, insurer,
26 insured, owner, insurance policy owner or any other person engaged in the
27 business of life settlements or insurance.

28 (f) Enter into, broker or otherwise deal in a life settlement contract
29 that was obtained by presenting false information concerning any fact
30 material to the policy or by concealing, for the purpose of misleading
31 another, information requested concerning any fact material to the policy
32 where the owner or the owner's agent intended to defraud the policy's issuer.

33 (g) Attempt to commit, assist, aid or abet in the commission of, or
34 conspiracy to commit the acts or omissions specified in this paragraph.

35 (h) Misrepresent the state of residence of an owner to be a state or
36 jurisdiction that does not have a law substantially similar to this chapter
37 for the purpose of evading or avoiding the provisions of this chapter.

38 Sec. 60. Section 23-501, Arizona Revised Statutes, is amended to read:

39 23-501. Definitions

40 In this article, unless the context otherwise requires:

41 1. "Department" means the department of economic security.

42 2. "Director" means the director of the department.

43 ~~4.~~ 3. "Division" means the department of economic security.

44 ~~5.~~ 4. "Maintenance" means money payments not to exceed the estimated
45 cost of subsistence during vocational rehabilitation.

1 ~~3.~~ 5. ~~"Disabled person" or "handicapped person"~~ "PERSON WITH A
2 DISABILITY" means any individual who has a physical or mental disability and
3 a substantial ~~handicap~~ DISADVANTAGE to employment, which is of such a nature
4 that vocational rehabilitation services may reasonably be expected to render
5 ~~him~~ THE PERSON fit to engage in a gainful occupation, including a gainful
6 occupation which is more consistent with ~~his~~ THE PERSON'S capacities and
7 abilities, or for whom vocational rehabilitation services are necessary for
8 the purpose of extended evaluation to determine rehabilitation potential.

9 6. "Physical restoration" means medical, surgical or therapeutic
10 treatment necessary to correct or reduce the employment ~~handicap~~ DISADVANTAGE
11 of a ~~disabled~~ person WITH A DISABILITY and includes medical, psychiatric,
12 dental and surgical treatment, nursing service, hospital care not to exceed
13 ninety days, convalescent home care, drugs, medical and surgical supplies and
14 prosthetic appliances and other related services as defined in the vocational
15 rehabilitation act, as amended.

16 7. "Prosthetic appliance" means an artificial device necessary to
17 support or take the place of a part of the body, or to increase the acuity of
18 a sense organ.

19 8. "Vocational rehabilitation" or "vocational rehabilitation service"
20 means a service determined by the director to be necessary to enable a
21 ~~disabled~~ person WITH A DISABILITY to engage in a remunerative occupation and
22 includes medical and vocational diagnosis, vocational guidance, counsel and
23 placement, rehabilitation, training, physical restoration, transportation,
24 occupational licenses, customary occupational tools and equipment,
25 maintenance and training books and materials, follow up, evaluation and work
26 adjustment and other related services as defined in the vocational
27 rehabilitation act, as amended.

28 Sec. 61. Section 23-502, Arizona Revised Statutes, is amended to read:

29 23-502. Rehabilitation services

30 The department shall provide vocational rehabilitation service to
31 ~~disabled~~ persons WITH A DISABILITY WHO ARE eligible ~~therefor~~ as provided by
32 this article.

33 Sec. 62. Section 23-503, Arizona Revised Statutes, is amended to read:

34 23-503. Duties and powers

35 The department shall cooperate in carrying out the purposes of federal
36 statutes pertaining to vocational rehabilitation. The division may adopt
37 methods of administration found by the federal government necessary for the
38 proper and efficient operation of agreements relating to vocational
39 rehabilitation, and shall comply with conditions deemed necessary to secure
40 the full benefits of such federal statutes. The division may:

41 1. Cooperate with other departments, divisions, agencies and
42 institutions in providing for the vocational rehabilitation of ~~disabled~~
43 persons WITH A DISABILITY and studying the problems involved therein, and in
44 establishing, developing and providing programs, facilities and services
45 deemed necessary or desirable.

1 2. Enter into reciprocal agreements with other states to provide for
2 vocational rehabilitation of residents of the states concerned.

3 Sec. 63. 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 ~~intellectually disabled~~ persons WITH AN
8 INTELLECTUAL DISABILITY with its provision of intellectual disability
9 services to such persons, including the areas of evaluation of applicants for
10 either type of services and the development of program and rehabilitation
11 plans for ~~intellectually disabled~~ persons WITH AN INTELLECTUAL DISABILITY.

12 Sec. 64. Section 23-506, Arizona Revised Statutes, is amended to read:

13 23-506. Eligibility for assistance

14 A. Vocational rehabilitation service shall be provided to a ~~disabled~~
15 person WITH A DISABILITY, resident in the state, whose vocational
16 rehabilitation in the judgment of the director after investigation can
17 satisfactorily be achieved, or to any such person who is eligible for
18 rehabilitation service under the terms of an agreement with the federal
19 government or with another state. Unless otherwise provided by law, the
20 following vocational rehabilitation services shall be provided at public cost
21 only to ~~disabled~~ persons WITH A DISABILITY WHO ARE determined to require
22 financial assistance:

23 1. Physical restoration not including curative treatment for acute or
24 transitory conditions.

25 2. Transportation not otherwise provided to determine the eligibility
26 of the individual and the nature and extent of the rehabilitation services
27 necessary.

28 3. Occupational licenses.

29 4. Customary occupational tools and equipment.

30 5. Maintenance.

31 6. Training books and materials.

32 B. The right of a ~~disabled~~ person WITH A DISABILITY to maintenance
33 granted under ~~the provisions of~~ this section may not be transferred or
34 assigned.

35 Sec. 65. Section 23-901.04, Arizona Revised Statutes, is amended to
36 read:

37 23-901.04. Compensation precluded by misconduct, self-exposure
38 or disobedience of orders of commission;
39 definition

40 A. Notwithstanding any other provision of this chapter, no employee or
41 dependent of an employee shall be entitled to receive compensation for
42 disability from an occupational disease, as defined by section 23-901,
43 paragraph 13, subdivision (c), when such disability was caused either wholly
44 or partly by the wilful misconduct, wilful self-exposure or disobedience to
45 such reasonable rules and regulations adopted by the employer and which have

1 been and are kept posted in conspicuous places in and about the premises of
2 the employer, or otherwise brought to the attention of the employee.

3 B. As used in this section the term "wilful self-exposure" includes:

4 1. Failure or omission on the part of an employee or applicant for
5 employment truthfully to state in writing to the best of his knowledge in
6 answer to an inquiry made by the employer, the place, duration and nature of
7 previous employment.

8 2. Failure or omission on the part of an applicant for employment
9 truthfully to state in writing to the best of his knowledge in answer to an
10 inquiry made by the employer, whether or not he had previously been ~~disabled~~
11 ~~A PERSON WITH A DISABILITY~~, laid off or compensated in damages or otherwise
12 because of any physical disability.

13 3. Failure or omission on the part of an employee or applicant for
14 employment truthfully to give in writing to the best of his knowledge in
15 answer to an inquiry made by the employer, full information about the
16 previous status of his health, previous medical and hospital attention and
17 direct and continuous exposure to active pulmonary tuberculosis.

18 Sec. 66. Section 23-901.07, Arizona Revised Statutes, is amended to
19 read:

20 23-901.07. Persons with disabilities in vocational training;
21 definition

22 A. Notwithstanding section 23-901, a qualified client of a nonprofit
23 organization which provides vocational training to ~~handicapped~~ persons ~~WITH~~
24 ~~DISABILITIES~~ is an employee of the nonprofit organization for the purposes of
25 this chapter if the nonprofit organization elects to have the qualified
26 client treated as an employee.

27 B. ~~In~~ ~~FOR THE PURPOSES OF~~ this section, "qualified client" means a
28 ~~handicapped~~ person ~~WITH A DISABILITY~~ who is enrolled in a vocational training
29 program with a nonprofit organization, who works as part of this program for
30 the nonprofit organization or for another person under a contract with the
31 nonprofit corporation and who receives compensation for the work from the
32 nonprofit organization.

33 Sec. 67. Section 23-1065, Arizona Revised Statutes, is amended to
34 read:

35 23-1065. Special fund; purposes; investment committee

36 A. The industrial commission may direct the payment into the state
37 treasury of not to exceed one and one-half per cent of all premiums received
38 by private insurance carriers during the immediately preceding calendar
39 year. The same percentage shall be assessed against self-insurers based on
40 the total cost to the self-insured employer as provided in section 23-961,
41 subsection J. Such assessments shall be computed on the same premium basis
42 as provided for in section 23-961, subsections J, K, L, M and N and shall be
43 no more than is necessary to keep the special fund actuarially sound. Such
44 payments shall be placed in a special fund within the administrative fund to
45 provide, at the discretion of the commission, such additional awards as may

1 be necessary to enable injured employees to accept the benefits of any law of
2 this state or of the United States, or both jointly, for promotion of
3 vocational rehabilitation of persons ~~disabled~~ WITH DISABILITIES in industry.

4 B. In claims involving an employee who has a preexisting
5 industrially-related permanent physical impairment of the type specified in
6 section 23-1044, subsection B and who thereafter suffers an additional
7 permanent physical impairment of the type specified in such subsection, the
8 claim involving the subsequent impairment is eligible for reimbursement, as
9 provided by subsection D of this section, according to the following:

10 1. The employer in whose employ the subsequent impairment occurred or
11 its insurance carrier is solely responsible for all temporary disability
12 compensation to which the employee is entitled and for an amount equal to the
13 permanent disability compensation provided by section 23-1044, subsection B
14 for the subsequent impairment. If the employee is determined to have
15 sustained no loss of earning capacity after the medically stationary date,
16 the employer or carrier shall pay him as a vocational rehabilitation bonus
17 the amount calculated under this paragraph as a lump sum, which shall be a
18 credit against any permanent compensation benefits awarded in any subsequent
19 proceeding. The amount of the vocational rehabilitation bonus for which the
20 employer or carrier is responsible under this paragraph shall be calculated
21 solely on physical, medically rated permanent impairment and not on
22 occupational or other factors.

23 2. If the commission determines that the employee is entitled to
24 compensation for loss of earning capacity under section 23-1044, subsection C
25 or permanent total disability under section 23-1045, subsection B, the total
26 amount of permanent benefits for which the employer or carrier is solely
27 responsible under paragraph 1 of this subsection shall be expended first,
28 with monthly payments made according to the loss of earning capacity or
29 permanent total disability award. The employer or carrier and the special
30 fund are equally responsible for the remaining amount of compensation for
31 loss of earning capacity under section 23-1044, subsection C or permanent
32 total disability under section 23-1045, subsection B. This paragraph shall
33 not be construed as requiring payment of any benefits under section 23-1044,
34 subsection B in any case in which an employee is entitled to benefits for
35 loss of earning capacity under section 23-1044, subsection C or permanent
36 total disability benefits under section 23-1045, subsection B.

37 C. In claims involving an employee who has a preexisting physical
38 impairment that is not industrially-related and, whether congenital or due to
39 injury or disease, is of such seriousness as to constitute a hindrance or
40 obstacle to employment or to obtaining reemployment if the employee becomes
41 unemployed, and the impairment equals or exceeds a ten per cent permanent
42 impairment evaluated in accordance with the American medical association
43 guides to the evaluation of permanent impairment, and the employee thereafter
44 suffers an additional permanent impairment not of the type specified in
45 section 23-1044, subsection B, the claim involving the subsequent impairment

1 is eligible for reimbursement, as provided by subsection D of this section,
2 under the following conditions:

3 1. The employer in whose employ the subsequent impairment occurred or
4 its carrier is solely responsible for all temporary disability compensation
5 to which the employee is entitled.

6 2. The employer had knowledge of the permanent impairment at the time
7 the employee was hired, or that the employee continued in employment after
8 the employer acquired such knowledge.

9 3. The employee's preexisting impairment is due to one or more of the
10 following:

11 (a) Epilepsy.

12 (b) Diabetes.

13 (c) Cardiac disease.

14 (d) Arthritis.

15 (e) Amputated foot, leg, arm or hand.

16 (f) Loss of sight of one or both eyes or a partial loss of uncorrected
17 vision of more than seventy-five per cent bilaterally.

18 (g) Residual disability from poliomyelitis.

19 (h) Cerebral palsy.

20 (i) Multiple sclerosis.

21 (j) Parkinson's disease.

22 (k) Cerebral vascular accident.

23 (l) Tuberculosis.

24 (m) Silicosis.

25 (n) Psychoneurotic disability following treatment in a recognized
26 medical or mental institution.

27 (o) Hemophilia.

28 (p) Chronic osteomyelitis.

29 (q) Hyperinsulinism.

30 (r) Muscular dystrophies.

31 (s) Arteriosclerosis.

32 (t) Thrombophlebitis.

33 (u) Varicose veins.

34 (v) Heavy metal poisoning.

35 (w) Ionizing radiation injury.

36 (x) Compressed air sequelae.

37 (y) Ruptured intervertebral disk.

38 4. The employer or carrier and the special fund are equally
39 responsible for the amount of compensation for loss of earning capacity under
40 section 23-1044, subsection C or permanent total disability under section
41 23-1045, subsection B.

42 D. The employer or insurance carrier shall notify the commission of
43 its intent to claim reimbursement for an eligible claim under subsection B or
44 C of this section not later than the time the employer or insurance carrier
45 notifies the commission pursuant to section 23-1047, subsection A. Upon

1 receiving notice the commission may expend funds from the special fund
 2 created by this section for travel and discovery procedures and for the
 3 employment of such independent legal, medical, rehabilitation, claims or
 4 labor market consultants or experts as may be deemed necessary by the
 5 commission to assist in the determination of the liability of the special
 6 fund, if any, under subsection B or C of this section. In the event there is
 7 any dispute regarding liability to the special fund pursuant to subsection B
 8 or C of this section, the commission shall not delay the issuance of a
 9 permanent award pursuant to section 23-1047, subsection B.

10 E. If the special fund created by this section is determined to be
 11 liable under either subsection B or C of this section, the employer or
 12 insurance carrier that is primarily liable shall pay the entire amount of the
 13 award to the injured employee and the commission shall by rule provide for
 14 the reimbursement of the employer or insurance carrier on an annual basis.
 15 In any case arising out of subsection B or C of this section, the written
 16 approval of the special fund is required for the compromise of any claim made
 17 pursuant to section 23-1023. In any such case, written approval shall not be
 18 unreasonably withheld by the special fund, carrier, self-insured employer or
 19 other person responsible for the payment of compensation. Failure to obtain
 20 the written approval of the special fund shall not cause the injured worker
 21 to lose any benefits but ends the special fund's liability for reimbursement
 22 and makes the employer or carrier solely responsible for the payment of the
 23 remaining benefits.

24 F. The employer or insurance carrier shall make its claim for
 25 reimbursement to the commission no later than November 1 each year, for
 26 payments made pursuant to subsection B or C of this section during the twelve
 27 months prior to October 1 each year. Claims shall be paid before December 31
 28 each year. If the total annual reserved liabilities of the special fund
 29 obligated under subsections B and C of this section exceed six million
 30 dollars, as determined by the annual actuarial study performed pursuant to
 31 subsection I of this section, the commission, after notice and a hearing, may
 32 levy an additional assessment under subsection A of this section of up to
 33 one-half per cent to meet such liabilities. Any insurance carrier or
 34 employer who may be adversely affected by the additional assessment may at
 35 any time prior to the sixtieth day after such additional assessment is
 36 ordered file a complaint challenging the validity of the additional
 37 assessment in the superior court in Maricopa county for a judicial review of
 38 the additional assessment. On judicial review the determination of the
 39 commission shall be upheld if supported by substantial evidence in the record
 40 considered as a whole.

41 G. In the event the injured employee is awarded additional
 42 compensation, under subsection A of this section, the commission retains
 43 jurisdiction to amend, alter or change the award upon a change in the
 44 physical condition of the injured employee resulting from the injury.

1 H. On receiving notice that the special fund may be liable under this
2 chapter, the commission may spend monies from the special fund established by
3 this section for expenses that are necessary to assist in the processing,
4 payment or determination of liability of the fund. These expenses may
5 include travel, discovery procedures and employing any legal, medical,
6 rehabilitation, claims or labor market consultant, examiner or expert.

7 I. The commission shall cause an annual actuarial study of the special
8 award fund to be made by a qualified actuary who is a member of the society
9 of actuaries. The actuary shall make specific recommendations for
10 maintaining the fund on a sound actuarial basis. The actuarial study shall
11 be completed on or before September 1.

12 J. The special fund of the commission consists of all monies from
13 premiums and assessments, except penalties assessed pursuant to this chapter,
14 received and paid into the fund, property and securities acquired by the use
15 of monies in the fund, interest earned on monies in the fund and other monies
16 derived from the sale, use or lease of properties belonging to the fund. The
17 special fund created by this section shall be administered by the director of
18 the industrial commission, subject to the authority of the industrial
19 commission. The director of the commission with approval of the investment
20 committee, in the administration of the special fund, may provide loans,
21 subject to repayment, budgetary review and legislative appropriation, to the
22 administrative fund for the purposes and subject to section 23-1081, acquire
23 real property and acquire or construct a building or other improvements on
24 the real property as may be necessary to house, contain, furnish, equip and
25 maintain offices and space for departmental and operational facilities of the
26 commission. The commission when using space constructed pursuant to this
27 section shall make equal payments of rent on a semiannual basis, which shall
28 be deposited in the special fund. The investment committee shall determine
29 the amount of the rent, which must be at least equal to or greater than that
30 determined by the joint committee on capital review for buildings of similar
31 design and construction as provided by section 41-792.01.

32 K. There is established an investment committee consisting of the
33 director and the chairman of the commission and three persons knowledgeable
34 in investments and economics appointed by the governor. Of the members
35 appointed by the governor, one shall be a professional in the investment
36 business, one shall represent workers' compensation insurers and one shall
37 represent self-insurers. The term of members appointed by the governor is
38 three years, which shall begin on July 1 and end on June 30 three years
39 later. The committee shall prescribe by rule investment policies and
40 supervise the investment activities of the special fund.

41 L. Each member of the investment committee, other than the director of
42 the commission, is eligible to receive from the special fund:

43 1. Compensation of fifty dollars for each day while in actual
44 attendance at meetings of the investment committee.

1 2. Reimbursement for expenses pursuant to title 38, chapter 4,
2 article 2.

3 M. The investment committee shall meet at least once every month.

4 N. The investment committee shall periodically review and assess the
5 investment strategy.

6 O. The investment committee, by resolution, may invest and reinvest
7 the surplus or reserves in the funds established under this chapter in any
8 legal investments authorized under section ~~38-719~~ 38-718.

9 P. In addition to the investments authorized under section ~~38-719~~
10 38-718, the investment committee may approve the investment in real property
11 and improvements on real property to house and maintain offices of the
12 commission, including spaces for its departmental and operational facilities.
13 Title to the real estate and improvements on the real estate vests in the
14 special fund of the commission, and the assets become part of the fund as
15 provided by this section.

16 Q. The investment committee may appoint a custodian for the
17 safekeeping of all or any portion of the investments owned by the special
18 fund of the commission and may register stocks, bonds and other investments
19 in the name of a nominee. Except for investments held by a custodian or in
20 the name of a nominee, all securities purchased pursuant to subsection O of
21 this section shall promptly be deposited with the state treasurer as
22 custodian thereof, who shall collect the dividends, interest and principal
23 thereof, and pay, when collected, into the special fund. The state treasurer
24 shall pay all vouchers drawn for the purchase of securities. The director
25 may sell any of the securities as the director deems appropriate, if
26 authorized by resolution of the investment committee, and the proceeds
27 therefrom shall be payable to the state treasurer for the account of the
28 special fund upon delivery of the securities to the purchaser or the
29 purchaser's agent.

30 Sec. 68. Section 23-1071, Arizona Revised Statutes, is amended to
31 read:

32 23-1071. Notice by employees with disabilities of absence from
33 locality or state; failure to give notice; change of
34 doctor

35 A. No employee may leave the state of Arizona for a period exceeding
36 two weeks while the necessity of having medical treatment continues, without
37 the written approval of the commission. Any employee leaving the state of
38 Arizona for a period exceeding two weeks without such approval will forfeit
39 ~~his~~ THE EMPLOYEE'S right to compensation during such time, as well as ~~his~~ THE
40 EMPLOYEE'S right to reimbursement for ~~his~~ THE EMPLOYEE'S medical expenses,
41 and any aggravation of ~~his~~ THE EMPLOYEE'S disability, by reason of the
42 violation of this section, will not be compensated. If an administrative law
43 judge approves an employee's request to leave this state after the request
44 for written approval was initially denied by the commission, the employee is

1 entitled to any forfeited compensation and medical benefits from the date the
2 employee first requested the written approval.

3 B. No employee may change doctors without the written authorization of
4 the insurance carrier, the commission or the attending physician.

5 Sec. 69. Section 25-320, Arizona Revised Statutes, is amended to read:
6 25-320. Child support; factors; methods of payment; additional
7 enforcement provisions; definitions

8 A. In a proceeding for dissolution of marriage, legal separation,
9 maintenance or child support, the court may order either or both parents
10 owing a duty of support to a child, born to or adopted by the parents, to pay
11 an amount reasonable and necessary for support of the child, without regard
12 to marital misconduct.

13 B. If child support has not been ordered by a child support order and
14 if the court deems child support appropriate, the court shall direct, using a
15 retroactive application of the child support guidelines to the date of filing
16 a dissolution of marriage, legal separation, maintenance or child support
17 proceeding, the amount that the parents shall pay for the past support of the
18 child and the manner in which payment shall be paid, taking into account any
19 amount of temporary or voluntary support that has been paid. Retroactive
20 child support is enforceable in any manner provided by law.

21 C. If the parties lived apart before the date of the filing for
22 dissolution of marriage, legal separation, maintenance or child support and
23 if child support has not been ordered by a child support order, the court may
24 order child support retroactively to the date of separation, but not more
25 than three years before the date of the filing for dissolution of marriage,
26 legal separation, maintenance or child support. The court must first
27 consider all relevant circumstances, including the conduct or motivation of
28 the parties in that filing and the diligence with which service of process
29 was attempted on the obligor spouse or was frustrated by the obligor spouse.
30 If the court determines that child support is appropriate, the court shall
31 direct, using a retroactive application of the child support guidelines, the
32 amount that the parents must pay for the past support of the child and the
33 manner in which payments must be paid, taking into account any amount of
34 temporary or voluntary support that has been paid.

35 D. The supreme court shall establish guidelines for determining the
36 amount of child support. The amount resulting from the application of these
37 guidelines is the amount of child support ordered unless a written finding is
38 made, based on criteria approved by the supreme court, that application of
39 the guidelines would be inappropriate or unjust in a particular case. The
40 supreme court shall review the guidelines at least once every four years to
41 ensure that their application results in the determination of appropriate
42 child support amounts. The supreme court shall base the guidelines and
43 criteria for deviation from them on all relevant factors, considered together
44 and weighed in conjunction with each other, including:

- 45 1. The financial resources and needs of the child.

- 1 2. The financial resources and needs of the custodial parent.
- 2 3. The standard of living the child would have enjoyed if the child
- 3 lived in an intact home with both parents to the extent it is economically
- 4 feasible considering the resources of each parent and each parent's need to
- 5 maintain a home and to provide support for the child when the child is with
- 6 that parent.
- 7 4. The physical and emotional condition of the child, and the child's
- 8 educational needs.
- 9 5. The financial resources and needs of the noncustodial parent.
- 10 6. The medical support plan for the child. The plan should include
- 11 the child's medical support needs, the availability of medical insurance or
- 12 services provided by the Arizona health care cost containment system and
- 13 whether a cash medical support order is necessary.
- 14 7. Excessive or abnormal expenditures, destruction, concealment or
- 15 fraudulent disposition of community, joint tenancy and other property held in
- 16 common.
- 17 8. The duration of parenting time and related expenses.
- 18 E. Even if a child is over the age of majority when a petition is
- 19 filed or at the time of the final decree, the court may order support to
- 20 continue past the age of majority if all of the following are true:
- 21 1. The court has considered the factors prescribed in subsection D of
- 22 this section.
- 23 2. The child ~~is severely mentally or physically disabled~~ HAS SEVERE
- 24 MENTAL OR PHYSICAL DISABILITIES as demonstrated by the fact that the child is
- 25 unable to live independently and be self-supporting.
- 26 3. The child's disability began before the child reached the age of
- 27 majority.
- 28 F. If a child reaches the age of majority while the child is attending
- 29 high school or a certified high school equivalency program, support shall
- 30 continue to be provided during the period in which the child is actually
- 31 attending high school or the equivalency program but only until the child
- 32 reaches nineteen years of age unless the court enters an order pursuant to
- 33 subsection E of this section. Notwithstanding any other law, a parent paying
- 34 support for a child over the age of majority pursuant to this section is
- 35 entitled to obtain all records related to the attendance of the child in the
- 36 high school or equivalency program.
- 37 G. If a personal check for support payments and handling fees is
- 38 rightfully dishonored by the payor bank or other drawee, the person obligated
- 39 to pay support shall make any subsequent support payments and handling fees
- 40 only by cash, money order, cashier's check, traveler's check or certified
- 41 check. If a person required to pay support other than by personal check
- 42 demonstrates full and timely payment for twenty-four consecutive months, that
- 43 person may pay support by personal check if these payments are for the full
- 44 amount, are timely tendered and are not rightfully dishonored by the payor
- 45 bank or other drawee.

1 H. Subsection G of this section does not apply to payments made by
2 means of an assignment.

3 I. If after reasonable efforts to locate the obligee the clerk or
4 support payment clearinghouse is unable to deliver payments for the period
5 prescribed in section 25-503 due to the failure of the person to whom the
6 support has been ordered to be paid to notify the clerk or support payment
7 clearinghouse of a change in address, the clerk or support payment
8 clearinghouse shall not deliver further payments and shall return the
9 payments to the obligor consistent with the requirements of section 25-503.

10 J. An order for child support shall assign responsibility for
11 providing medical insurance for the child who is the subject of the support
12 order to one of the parents and shall assign responsibility for the payment
13 of any medical costs of the child that are not covered by insurance according
14 to the child support guidelines. Each parent shall provide information to
15 the court regarding the availability of medical insurance for the child that
16 is accessible and available at a reasonable cost. In title IV-D cases, the
17 parent responsible pursuant to court order for providing medical insurance
18 for the child shall notify the child support enforcement agency in the
19 department of economic security if medical insurance has been obtained or if
20 the child is no longer covered under an insurance plan.

21 K. If the court finds that neither parent has the ability to obtain
22 medical insurance for the child that is accessible and available at a
23 reasonable cost, the court shall:

24 1. In a title IV-D case, in accordance with established title IV-D
25 criteria, establish a reasonable monthly cash medical support order to be
26 paid by the obligor. If medical assistance is being provided to a child
27 under title XIX of the social security act, cash medical support is assigned
28 to the state pursuant to section 46-407. On verification that the obligor
29 has obtained private insurance, the cash medical support order terminates by
30 operation of law on the first day of the month after the policy's effective
31 date or on the date the court, or the department in a title IV-D case, is
32 notified that insurance has been obtained, whichever is later. If the
33 private insurance terminates, the cash medical support order automatically
34 resumes by operation of law on the first day of the month following the
35 termination date of the policy.

36 2. Order one parent to provide medical insurance when it becomes
37 accessible and available at a reasonable cost.

38 3. Order that medical costs in excess of the cash medical support
39 amount shall be paid by each parent according to the percentage assigned for
40 payment of uninsured costs.

41 L. In a title IV-D case, if the court orders the noncustodial parent
42 to obtain medical insurance the court shall also set an alternative cash
43 medical support order to be paid by that parent if the child is not covered
44 under an insurance plan within ninety days after entry of the order or if the

1 child is no longer covered by insurance. The court shall not order the
2 custodial parent to pay cash medical support.

3 M. In title IV-D cases the superior court shall accept for filing any
4 documents that are received through electronic transmission if the
5 electronically reproduced document states that the copy used for the
6 electronic transmission was certified before it was electronically
7 transmitted.

8 N. The court shall presume, in the absence of contrary testimony, that
9 a parent is capable of full-time employment at least at the applicable state
10 or federal adult minimum wage, whichever is higher. This presumption does
11 not apply to noncustodial parents who are under eighteen years of age and who
12 are attending high school.

13 O. An order for support shall provide for an assignment pursuant to
14 sections 25-504 and 25-323.

15 P. Each licensing board or agency that issues professional,
16 recreational or occupational licenses or certificates shall record on the
17 application the social security number of the applicant and shall enter this
18 information in its database in order to aid the department of economic
19 security in locating parents or their assets or to enforce child support
20 orders. This subsection does not apply to a license that is issued pursuant
21 to title 17 and that is not issued by an automated drawing system. If a
22 licensing board or agency allows an applicant to use a number other than the
23 social security number on the face of the license or certificate while the
24 licensing board or agency keeps the social security number on file, the
25 licensing board or agency shall advise an applicant of this fact.

26 Q. The factors prescribed pursuant to subsection D of this section are
27 stated for direction to the supreme court. Except pursuant to subsection E
28 of this section and sections 25-501 and 25-809, The superior court shall not
29 consider the factors when making child support orders, independent of the
30 child support guidelines.

31 R. For the purposes of this section:

32 1. "Accessible" means that insurance is available in the geographic
33 region where the child resides.

34 2. "Child support guidelines" means the child support guidelines that
35 are adopted by the state supreme court pursuant to 42 United States Code
36 sections 651 through 669B.

37 3. "Date of separation" means the date the married parents ceased to
38 cohabit.

39 4. "Reasonable cost" means an amount that does not exceed the higher
40 of five per cent of the gross income of the obligated parent or an
41 income-based numeric standard that is prescribed in the child support
42 guidelines.

43 5. "Support" has the same meaning prescribed in section 25-500.

44 6. "Support payments" means the amount of money ordered by the court
45 to be paid for the support of the minor child or children.

1 Sec. 70. Section 25-327, Arizona Revised Statutes, is amended to read:

2 25-327. Modification and termination of provisions for
3 maintenance, support and property disposition

4 A. Except as otherwise provided in section 25-317, subsections F and
5 G, the provisions of any decree respecting maintenance or support may be
6 modified or terminated only on a showing of changed circumstances that are
7 substantial and continuing except as to any amount that may have accrued as
8 an arrearage before the date of notice of the motion or order to show cause
9 to modify or terminate. The addition of health insurance coverage as defined
10 in section 25-531 or a change in the availability of health insurance
11 coverage may constitute a continuing and substantial change in circumstance.
12 The provisions as to property disposition may not be revoked or modified,
13 unless the court finds the existence of conditions that justify the reopening
14 of a judgment under the laws of this state. Modifications and terminations
15 are effective on the first day of the month following notice of the petition
16 for modification or termination unless the court, for good cause shown,
17 orders the change to become effective at a different date but not earlier
18 than the date of filing the petition for modification or termination.

19 B. Unless otherwise agreed in writing or expressly provided in the
20 decree, the obligation to pay future maintenance is terminated on the death
21 of either party or the remarriage of the party receiving maintenance.

22 C. Unless otherwise agreed in writing or expressly provided in the
23 decree, provisions for the support of a minor child are not terminated by the
24 death of a parent obligated to support the child. If a parent obligated to
25 pay support dies, the amount of future support may be modified, revoked or
26 commuted to a lump sum payment to the extent just and appropriate in the
27 circumstances and has priority equal to the right for family allowance in
28 section 14-2404. Past due support has priority equal to claims provided for
29 in section 14-3805, subsection A, paragraph 6.

30 D. Notwithstanding any other law, pursuant to a petition filed
31 pursuant to this section the court may suspend the imposition of future
32 interest that accrues on a judgment for support issued pursuant to this
33 article for the period of time that the petitioner is incarcerated or
34 ~~physically or mentally disabled~~ HAS PHYSICAL OR MENTAL DISABILITIES to the
35 extent that the person is unable to maintain employment.

36 Sec. 71. Section 25-501, Arizona Revised Statutes, is amended to read:

37 25-501. Duties of support; exemption

38 A. Except as provided in subsection F of this section, every person
39 has the duty to provide all reasonable support for that person's natural and
40 adopted minor, unemancipated children, regardless of the presence or
41 residence of the child in this state. In the case of ~~mentally or physically~~
42 ~~disabled~~ children WITH MENTAL OR PHYSICAL DISABILITIES, if the court, after
43 considering the factors set forth in section 25-320, subsection D, deems it
44 appropriate, the court may order support to continue past the age of
45 majority. If a child reaches the age of majority while the child is

1 attending high school or a certified high school equivalency program, support
2 shall continue to be provided while the child is actually attending high
3 school or the equivalency program but only until the child reaches nineteen
4 years of age unless the court enters an order pursuant to section 25-320,
5 subsection E.

6 B. A child who is born as the result of artificial insemination is
7 entitled to support from the mother as prescribed by this section and the
8 mother's spouse if the spouse either is the biological father of the child or
9 agreed in writing to the insemination before or after the insemination
10 occurred.

11 C. The child support guidelines shall be used in determining the
12 ability to pay child support and the amount of payments. The obligation to
13 pay child support is primary and other financial obligations are secondary.

14 D. All duties of support as prescribed in this chapter may be enforced
15 by all civil and criminal remedies provided by law.

16 E. Remedies provided by this chapter are cumulative and do not affect
17 the availability of remedies under other law.

18 F. The court may determine that a parent is not obligated to
19 contribute to the support of the parent's minor child if maternity or
20 paternity is the result of the parent's sexual contact with a person who, as
21 a result of that contact, has been found guilty of sexual conduct with a
22 minor under section 13-1405 or sexual assault under section 13-1406. The
23 court may also apply this exemption to the parent's parents or legal
24 guardian.

25 G. In any action filed pursuant to this title, if a duty of support
26 for another person exists or may exist the parties shall file the social
27 security ~~numbers~~ NUMBER of each party and any affected children in the record
28 of the proceeding in a manner that is consistent with the requirements of the
29 Arizona rules of family law relating to sensitive data. The court shall
30 include this information in the state case registry and shall maintain this
31 information in a manner that is consistent with the requirements of the
32 Arizona rules of family law relating to sensitive data.

33 Sec. 72. Section 25-809, Arizona Revised Statutes, is amended to
34 read:

35 25-809. Judgment

36 A. Except as provided in section 25-501, subsection F, if a respondent
37 admits parentage or if the issue is decided in the affirmative in an action
38 instituted during the child's minority, the court shall direct, subject to
39 applicable equitable defenses and using a retroactive application of the
40 current child support guidelines, the amount, if any, the parties shall pay
41 for the past support of the child and the manner in which payment shall be
42 made.

43 B. The court shall enter an order for support determined to be due for
44 the period between the commencement of the proceeding and the date that
45 current child support is ordered to begin. The court shall not order past

1 support retroactive to more than three years before the commencement of the
2 proceeding unless the court makes a written finding of good cause after
3 considering all relevant circumstances, including:

4 1. The circumstances, conduct or motivation of the party who claims
5 entitlement to past support in not seeking an earlier establishment of
6 maternity or paternity.

7 2. The circumstances, conduct or motivation of the party from whom
8 past support is sought in impeding the establishment of maternity or
9 paternity.

10 3. The diligence with which service of process was attempted on the
11 respondent.

12 C. The court shall also direct the amount either parent shall pay for
13 the actual costs of the pregnancy, childbirth and any genetic testing and
14 other related costs subject to production of billing statements or other
15 documentation. This documentation is prima facie evidence of amounts
16 incurred and is admissible in evidence without the need for foundation
17 testimony or other proof of authenticity or accuracy.

18 D. In any proceeding under this article the court shall order either
19 parent or both parents to pay any monies reasonable and necessary for the
20 support of the minor unemancipated child until the child reaches the age of
21 majority or is emancipated. In determining the amount of support for the
22 child, the court shall apply the child support guidelines pursuant to section
23 25-320, subsection D. If a child reaches the age of majority while the child
24 is attending high school or a certified high school equivalency program,
25 support shall continue to be provided while the child is actually attending
26 high school or the equivalency program but only until the child reaches
27 nineteen years of age unless the court enters an order pursuant to subsection
28 F of this section.

29 E. The court may modify an order of support pursuant to section
30 25-503.

31 F. Even if a child is over the age of majority when a petition is
32 filed or at the time of the final decree, the court may order support to
33 continue past the age of majority if all of the following are true:

34 1. The court has considered the factors prescribed in subsection D of
35 this section.

36 2. The child ~~is severely mentally or physically disabled~~ HAS SEVERE
37 MENTAL OR PHYSICAL DISABILITIES as demonstrated by the fact that the child is
38 unable to live independently and be self-supporting.

39 3. The child's disability began before the child reached the age of
40 majority.

41 G. After considering the financial resources of both parties and the
42 reasonableness of the positions each party has taken throughout the
43 proceedings, the court may order a party to pay a reasonable amount to the
44 other party for the costs and expenses of maintaining or defending any
45 proceeding under this article. The court may order the party to pay these

1 amounts directly to the attorney. The attorney may enforce the order in the
2 attorney's name with the same force and effect and in the same manner as if
3 the order had been made on behalf of any party to the action. For the
4 purposes of this subsection, "costs and expenses" includes attorney fees,
5 deposition costs, appellate costs and other reasonable expenses the court
6 determines were necessary.

7 H. The court has contempt powers to enforce its orders.

8 I. The parties may terminate an action brought under this article by
9 agreement and compromise only if the court has approved the terms of the
10 agreement and compromise.

11 Sec. 73. Section 28-882, Arizona Revised Statutes, is amended to
12 read:

13 28-882. Parking spaces for persons with physical disabilities

14 A. Each state agency having jurisdiction over street parking or
15 publicly owned and operated parking facilities shall provide specially
16 designated and marked motor vehicle parking spaces for the exclusive use of
17 persons with physical disabilities.

18 B. Each political subdivision of this state having jurisdiction over
19 street parking or publicly owned and operated parking facilities shall
20 provide, as determined by the county board of supervisors or the governing
21 body of a city or town, specially designated and marked motor vehicle parking
22 spaces for the exclusive use of persons with physical disabilities.

23 C. Each parking space ~~prescribed~~ DESCRIBED in this section shall be
24 prominently outlined with paint and posted with a permanent sign that is
25 located at least three feet but not more than six feet above the grade, that
26 is of a color and design approved by the department and that bears the
27 internationally accepted symbol of access and the caption "reserved parking".

28 Sec. 74. Section 28-884, Arizona Revised Statutes, is amended to read:

29 28-884. Parking space for persons with physical disabilities:
30 prohibition

31 A. Except as provided in subsection B, a person shall not stop, stand
32 or park a motor vehicle within any specially designated and marked parking
33 space provided pursuant to this article unless the motor vehicle is
34 transporting a person who has been issued a valid placard or international
35 symbol of access special plates and either:

36 1. The motor vehicle displays the valid ~~permanently-disabled~~ PERMANENT
37 DISABILITY or ~~temporarily-disabled~~ TEMPORARY DISABILITY removable windshield
38 placard.

39 2. The motor vehicle displays international symbol of access special
40 plates that are currently registered to the vehicle.

41 B. A person who is chauffeuring a person with a physical disability
42 without a placard or international symbol of access special plates may park
43 momentarily in a parking space provided pursuant to this article for the
44 purpose of loading or unloading the person with a physical disability, and a
45 complaint shall not be issued to the driver for the momentary parking.

1 Sec. 75. Section 28-2409, Arizona Revised Statutes, is amended to
2 read:

3 28-2409. International symbol of access special plates:
4 placard; definitions

5 A. The department shall issue special plates bearing the international
6 symbol of access to either:

7 1. A person who ~~is permanently physically disabled~~ HAS PERMANENT
8 PHYSICAL DISABILITIES and who is an owner or lessee of a motor vehicle.

9 2. An organization that owns or leases a motor vehicle that primarily
10 transports ~~physically disabled~~ persons WITH PHYSICAL DISABILITIES.

11 B. A ~~permanently disabled~~ PERMANENT DISABILITY special plate issued
12 under this section is valid for as long as the person to whom the plate is
13 issued qualifies for issuance under this section.

14 C. A person who ~~is permanently physically disabled~~ HAS PERMANENT
15 PHYSICAL DISABILITIES may obtain, if qualified, a ~~permanently disabled~~
16 PERMANENT DISABILITY removable windshield placard. A person who ~~is~~
17 ~~temporarily physically disabled~~ HAS A TEMPORARY PHYSICAL DISABILITY may
18 obtain, if qualified, a ~~temporarily disabled~~ TEMPORARY DISABILITY removable
19 windshield placard. An organization described in subsection A, paragraph 2
20 of this section may obtain, if qualified, a placard for each of the qualified
21 vehicles. The department shall issue only one valid placard to a ~~temporarily~~
22 ~~or permanently physically disabled~~ AN applicant WITH A TEMPORARY OR PERMANENT
23 PHYSICAL DISABILITY, except to replace a lost, stolen or mutilated placard or
24 if the department determines, on receiving the applicant's written request,
25 that the needs of the applicant are such that up to three valid placards are
26 required. The department shall issue a placard pursuant to this section at
27 no additional charge.

28 D. The department may issue up to three ~~permanently disabled~~ PERMANENT
29 DISABILITY removable windshield placards to a nonprofit organization that
30 provides assistance to senior citizens. The nonprofit organization shall
31 maintain records on each volunteer who uses these placards to transport
32 persons ~~who are temporarily or permanently disabled~~ WITH TEMPORARY OR
33 PERMANENT DISABILITIES.

34 E. A ~~permanently disabled~~ PERMANENT DISABILITY removable windshield
35 placard issued or renewed under this section is valid for five years. A
36 ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield placard issued
37 or renewed under this section is valid for a period of time as determined by
38 the department. A person who desires to obtain a ~~temporarily disabled~~
39 TEMPORARY DISABILITY removable windshield placard for an additional period of
40 time shall submit a new application.

41 F. A person or an organization described in subsection A, paragraph 2
42 of this section that desires to obtain a ~~permanently disabled~~ PERMANENT
43 DISABILITY or ~~temporarily disabled~~ TEMPORARY DISABILITY removable windshield
44 placard or international symbol of access special plates shall submit an

1 application to the department of transportation on a form furnished by the
2 department of transportation that contains one of the following:

3 1. If a ~~permanently or temporarily disabled~~ person WITH A PERMANENT OR
4 TEMPORARY DISABILITY, a medical certificate completed by a hospital
5 administrator, an authorized physician or a registered nurse practitioner
6 that certifies that the applicant ~~is physically disabled~~ HAS A PHYSICAL
7 DISABILITY.

8 2. If a ~~disabled~~ person WITH A DISABILITY who is a veteran and who is
9 one hundred per cent ~~disabled~~ A PERSON WITH A DISABILITY, a copy of the
10 person's certificate of one hundred per cent disability issued by the United
11 States department of veterans affairs.

12 3. If an organization, a signed statement by an authorized officer of
13 the organization affirming that the registered vehicle that is owned or
14 leased by the organization and that will display the placard or the
15 international symbol of access special plates primarily transports ~~physically~~
16 ~~disabled~~ persons WITH PHYSICAL DISABILITIES.

17 G. On receipt of the application containing the medical certificate,
18 the certificate of one hundred per cent disability issued by the United
19 States department of veterans affairs or the signed statement, if the
20 department of transportation finds that the applicant qualifies for the
21 parking privileges pursuant to chapter 3, article 14 of this title, the
22 department of transportation shall issue the placard or international symbol
23 of access special plates.

24 H. A person or an organization described in subsection A, paragraph 2
25 of this section that desires to renew a ~~permanently disabled~~ PERMANENT
26 DISABILITY removable windshield placard shall submit an application to the
27 department containing one of the following:

28 1. If a ~~permanently disabled~~ PERMANENT DISABILITY person, a signed
29 statement by the person that is witnessed by a department agent or notary
30 public, that requests the renewal of the placard and that affirms that the
31 person ~~is physically disabled~~ HAS A PHYSICAL DISABILITY.

32 2. If an organization, a signed statement by an authorized officer of
33 the organization affirming that the registered vehicle that is owned or
34 leased by the organization and that will display the placard primarily
35 transports persons WITH PHYSICAL DISABILITIES.

36 I. The placard or international symbol of access special plates shall
37 be displayed on or in the motor vehicle in the manner prescribed by the
38 department.

39 J. A request for special plates issued under this section may be
40 combined with a request for an honored military license plate issued under
41 article 13 of this chapter or any other special plate. The department shall
42 prescribe the form for the request. The request is subject to payment of
43 only the fee required for the honored military license plate or other special
44 plate and is not subject to any other special plate fee under section
45 28-2402. An international symbol of access special plate that is combined

1 with an honored military license plate or any other special plate is not a
2 personalized special plate under section 28-2406.

3 K. For the purposes of this section:

4 1. "Authorized physician" means a doctor of medicine, osteopathy,
5 podiatry or chiropractic licensed to practice medicine in this state or
6 another state or authorized by the United States government to practice
7 medicine.

8 2. "~~Permanently disabled~~ PERMANENT DISABILITY removable windshield
9 placard" means a two-sided, hooked placard that includes on each side all of
10 the following:

11 (a) The international symbol of access that is at least three inches
12 in height, that is centered on the placard and that is white on a blue
13 shield.

14 (b) An identification number.

15 (c) An expiration date.

16 (d) The seal or other identification of the issuing authority.

17 3. "~~Physically disabled~~ Person WITH A PHYSICAL DISABILITY" means a
18 person who, as determined by a hospital administrator or authorized
19 physician, meets any of the following conditions:

20 (a) Cannot walk two hundred feet without stopping to rest.

21 (b) Cannot walk without the use of or assistance from any brace, cane,
22 crutch, other person, prosthetic device, wheelchair or other assistive
23 device.

24 (c) Is restricted by lung disease to such an extent that the person's
25 forced respiratory, expiratory volume for one second, if measured by
26 spirometry, is less than one liter, or the arterial oxygen tension is less
27 than sixty mm/Hg on room air at rest.

28 (d) Uses portable oxygen.

29 (e) Has a cardiac condition to the extent that the person's functional
30 limitations are classified in severity as class III or class IV according to
31 standards set by the American heart association.

32 (f) Is severely limited in the person's ability to walk due to an
33 arthritic, neurological or orthopedic condition.

34 4. "~~Temporarily disabled~~ TEMPORARY DISABILITY removable windshield
35 placard" means a two-sided, hooked placard that includes on each side all of
36 the following:

37 (a) The international symbol of access that is at least three inches
38 in height, that is centered on the placard and that is white on a red shield.

39 (b) An identification number.

40 (c) A date of expiration.

41 (d) The seal or other identification of the issuing authority.

1 Sec. 76. Section 28-2531, Arizona Revised Statutes, is amended to
2 read:

3 28-2531. Registration; violation; classification; exceptions

4 A. A person is guilty of a class 5 felony who:

5 1. Intentionally removes a manufacturer's serial or identification
6 number from, defaces, alters or destroys a manufacturer's serial or
7 identification number on or knowingly possesses any removed, defaced, altered
8 or destroyed manufacturer's serial or identification number from a motor
9 vehicle.

10 2. Is in possession of a motor vehicle knowing or having reason to
11 know that a manufacturer's serial or vehicle identification number has been
12 removed, defaced, altered or destroyed without the permission of the
13 department.

14 3. Knowingly issues a license plate without payment of the full amount
15 of the registration and weight fee payable on the date of issuance of the
16 license plate.

17 B. A person is guilty of a class 2 misdemeanor who:

18 1. Displays or possesses a registration card or license plate knowing
19 it to be fictitious or to have been stolen, canceled, revoked, suspended or
20 altered.

21 2. Lends to a person or knowingly permits the use of the person's
22 registration card or license plate by a person not entitled to the card or
23 plate.

24 3. Knowingly fails or refuses to surrender to the department on demand
25 a license plate that has been suspended, canceled or revoked.

26 4. Uses a false or fictitious name or address in an application for
27 registration of a vehicle or for a renewal or duplicate of a registration.

28 5. Knowingly makes a false statement or conceals a material fact or
29 otherwise commits fraud in an application for registration of a vehicle or
30 for a renewal or duplicate of a registration.

31 6. Knowingly issues a registration card that does not contain all
32 information required to be shown on the card.

33 7. Knowingly places information on a registration card that does not
34 appear on the certificate of title of the vehicle.

35 8. Operates on a street or highway a motor vehicle without an
36 emissions control device as required by section 28-955 or with a device that
37 has been dismantled or disconnected or is otherwise inoperative.

38 9. Displays or possesses a registration card or license plate while
39 operating a vehicle on a highway after the person certifies to the department
40 pursuant to section ~~28-4135~~ 28-4152 that the vehicle is nonoperational, is in
41 storage or will not be operated on a highway of this state and does not have
42 evidence of current financial responsibility applicable to the motor vehicle.

43 10. Intentionally alters, forges or counterfeits a ~~permanently disabled~~
44 PERMANENT DISABILITY removable windshield placard issued by this state or
45 another state or country.

1 C. This section does not apply to law enforcement officers or
2 employees of the United States, this state or a political subdivision of this
3 state if the violation occurs in the course of their official duties.

4 D. Subsection A, paragraph 2 of this section does not apply to a
5 towing company that has a vehicle in its possession pursuant to section
6 9-499.05, 11-251.04, 28-872 or 28-4834 or a business acting in good faith and
7 in the normal course of business and in conformance with all applicable laws.

8 Sec. 77. Section 28-3165, Arizona Revised Statutes, is amended to
9 read:

10 28-3165. Nonoperating identification license; immunity; rules;
11 emancipated minors

12 A. On receipt of an application from a person who does not have a
13 valid driver license issued by this state or whose driving privilege is
14 suspended, the department shall issue a nonoperating identification license
15 that contains a distinguishing number assigned to the licensee, the full
16 legal name, the date of birth, the residence address and a brief description
17 of the licensee and either a facsimile of the signature of the licensee or a
18 space on which the licensee is required to write the licensee's usual
19 signature with pen and ink. A nonoperating identification license that is
20 issued to a person whose driving privilege is suspended shall not be valid
21 for more than one hundred eighty days from the date of issuance.

22 B. On request of an applicant:

23 1. The department shall allow the applicant to provide on the
24 nonoperating identification license a post office box address that is
25 regularly used by the applicant.

26 2. If the applicant submits satisfactory proof to the department that
27 the applicant is a veteran, the department shall allow a distinguishing mark
28 to appear on the nonoperating identification license that identifies that
29 person as a veteran.

30 C. A person who is issued a license pursuant to this section shall use
31 it only for identification purposes of the licensee. The nonoperating
32 identification license does not grant authority to operate a motor vehicle in
33 this state. The department shall clearly label the nonoperating
34 identification license "for identification only, not for operation of a motor
35 vehicle".

36 D. On issuance of a driver license, the holder of a nonoperating
37 identification license shall surrender the nonoperating identification
38 license to the department and the department shall not refund any fee paid
39 for the issuance of the nonoperating identification license.

40 E. A nonoperating identification license shall contain the photograph
41 of the licensee. The department shall use a process in the issuance of
42 nonoperating identification licenses that prohibits as nearly as possible the
43 ability to superimpose a photograph on the license without ready detection.
44 The department shall process nonoperating identification licenses and photo
45 attachments in color.

1 F. On application, an applicant shall give the department satisfactory
2 proof of the applicant's full legal name, date of birth, sex and residence
3 address and that the applicant's presence in the United States is authorized
4 under federal law. The application shall briefly describe the applicant,
5 state whether the applicant has been licensed, and if so, the type of license
6 issued, when and by what state or country and whether any such license is
7 under suspension, revocation or cancellation. The application shall contain
8 other identifying information required by the department.

9 G. The department may adopt and implement procedures to deny a
10 nonoperating identification license to a person who has been deported. The
11 department may adopt and implement procedures to reinstate a person's
12 privilege to apply for a nonoperating identification license if the person's
13 legal presence status is restored.

14 H. A nonoperating identification license issued by the department is
15 solely for the use and convenience of the applicant for identification
16 purposes.

17 I. The department shall adopt rules and establish fees for issuance of
18 a nonoperating identification license, except that the department shall not
19 require an examination.

20 J. A person who is sixty-five years of age or older and a person who
21 is a recipient of public monies as ~~a-disabled~~ AN individual WITH A DISABILITY
22 under title XVI of the social security act, as amended, are exempt from the
23 fees established pursuant to this section.

24 K. If a person qualifies for a nonoperating identification license and
25 is under the legal drinking age, the department shall issue a license that is
26 marked by color, code or design to immediately distinguish it from a
27 nonoperating identification license issued to a person of legal drinking age.
28 The department shall indicate on the nonoperating identification license
29 issued pursuant to this subsection the year in which the person will attain
30 the legal drinking age.

31 L. If a minor has been emancipated pursuant to title 12, chapter 15,
32 on application and proof of emancipation, the department shall issue a
33 nonoperating identification license that contains the words "emancipated
34 minor".

35 Sec. 78. Section 28-5802, Arizona Revised Statutes, is amended to
36 read:

37 28-5802. Vehicle license tax exemption; veterans

38 A. Notwithstanding section 28-5801, the registering officer shall not
39 collect a vehicle license tax or registration fee from:

40 1. A veteran residing in this state for a vehicle or any replacement
41 of the vehicle acquired by financial aid from the ~~veterans'-administration~~
42 UNITED STATES DEPARTMENT OF VETERANS AFFAIRS pursuant to ~~P.L.~~ PUBLIC LAW
43 79-663, 85-56, 85-857, 90-77, 91-666 and 93-538; 38 United States Code
44 sections 1901 through 1988.

1 B. Public power entities shall work with interested parties including
2 community based consumer advocate organizations to develop and implement an
3 outreach and education plan. This plan shall include:

4 1. The dissemination of information by means of interactive
5 approaches, as well as brochures or other written materials and a variety of
6 mass media outlets.

7 2. An explanation in clear and plain language of the basic concepts of
8 competitive electric generation service including the following issues:

9 (a) The effects of competitive electric generation service on retail
10 electric customers and consumer programs.

11 (b) The basic responsibilities and risks retail electric customers
12 assume with competitive electric generation service.

13 (c) The basic criteria for selecting a retail electricity supplier or
14 provider of other services.

15 (d) Where the retail electric customer can find information on
16 consumer protection, customer complaints and dispute resolution programs.

17 (e) The resources available for additional information including
18 listing a toll free telephone number.

19 3. Publicized public forums conducted in several geographical areas of
20 this state to obtain public input and provide opportunities for exchange of
21 questions and answers.

22 4. Targeted efforts to reach rural, low income, elderly, non-english
23 speaking, ~~disabled, minorities~~ PERSONS WITH DISABILITIES, MINORITY and
24 at-risk populations.

25 Sec. 81. Section 31-201.01, Arizona Revised Statutes, is amended to
26 read:

27 31-201.01. Duties of the director: tort actions: medical
28 treatment costs: state immunity: definitions

29 A. The director shall hold in custody all persons sentenced to the
30 department under the law and shall hold such persons for the term directed by
31 the court, subject to law.

32 B. In addition to the medical and health services to be provided
33 pursuant to subsection D of this section, the director may, in cooperation
34 with the department of health services, provide to prisoners psychiatric care
35 and treatment pursuant to sections 31-226 and 31-226.01.

36 C. The director may institute and pursue programs which promote the
37 rehabilitation of the prisoners in the director's charge.

38 D. The director shall provide medical and health services for the
39 prisoners. The director may contract for professional services to assist the
40 director in carrying out this responsibility on behalf of the state, provided
41 that all records made and retained in connection with the services provided
42 by this subsection shall be made and retained only by duly authorized or
43 qualified medical and professional personnel and not by any prisoner. Such
44 records when not in use shall be retained in a safe and secure place.

1 E. If a victim of a person for whom a cost of incarceration has been
2 calculated notifies the state that full restitution has not been made by the
3 person for whom a cost of incarceration has been calculated, the state shall
4 interplead with the superior court the disputed amount and set off the
5 amounts owed the state from the remaining obligation.

6 F. Any and all causes of action which may arise out of tort caused by
7 the director, prison officers or employees of the department, within the
8 scope of their legal duty, shall run only against the state.

9 G. The director shall establish by rule reasonable medical and health
10 service fees for the medical and health services that are provided pursuant
11 to subsection D of this section. Except as provided in subsection I of this
12 section, every inmate shall be charged a reasonable medical and health
13 services fee for each medical visit an inmate makes pursuant to a health
14 needs request form or for emergency treatment.

15 H. Except as provided in subsection I of this section, the director
16 may charge each inmate a reasonable fee for prescriptions, medication or
17 prosthetic devices.

18 I. The director shall exempt the following inmates or medical visits
19 by inmates from payment of medical and health services fees and fees for
20 prescriptions, medication or prosthetic devices:

21 1. Medical visits initiated by the medical or mental health staff of
22 the department.

23 2. Medical visits to a physician by inmates who are referred by a
24 physician assistant or nurse practitioner.

25 3. Inmates at reception centers.

26 4. Juvenile inmates.

27 5. Pregnant inmates.

28 6. Seriously mentally ill inmates. For the purposes of this
29 paragraph, "seriously mentally ill inmates" means inmates who as a result of
30 a mental disorder as defined in section 36-501 exhibit emotional or
31 behavioral functioning which is so impaired as to interfere substantially
32 with their capacity to remain in the general prison population without
33 supportive treatment or services of a long-term or indefinite duration and
34 whose mental disability is severe and persistent, resulting in a long-term
35 limitation of their functional capacities for primary activities of daily
36 living, including interpersonal relationships, self-care, employment and
37 recreation.

38 7. ~~Developmentally disabled~~ Inmates WITH DEVELOPMENTAL DISABILITIES
39 who are housed in a special programs unit.

40 8. Inmates who are housed in unit 8 at the Florence prison facility.

41 9. Inmates who are inpatients at the Alhambra prison facility special
42 programs psychiatric hospital.

43 10. Inmates who are inpatients at the Flamenco prison facility mental
44 health treatment unit.

1 11. Inmates who are undergoing administrative physical examinations for
2 statewide driver status and fire fighting crews.

3 12. Inmates who are undergoing follow-up medical treatment for chronic
4 diseases.

5 J. An inmate shall not be refused medical treatment for financial
6 reasons.

7 K. All monies received by the department for medical and health
8 service fees shall be deposited in the general fund.

9 L. A person who is convicted of a felony offense and who is
10 incarcerated while awaiting sentence or while serving a sentence imposed by a
11 court of law may not bring a cause of action seeking damages or equitable
12 relief from the state or its political subdivisions, agencies, officers or
13 employees for injuries suffered while in the custody of the state or its
14 political subdivisions or agencies unless the complaint alleges specific
15 facts from which the court may conclude that the plaintiff suffered serious
16 physical injury or the claim is authorized by a federal statute.

17 M. The director shall establish criteria for reasonable deductions
18 from monies credited to the prisoner's spendable account to repay the cost
19 of:

20 1. State property that the inmate wilfully damages or destroys during
21 the inmate's incarceration.

22 2. Medical treatment for injuries that the inmate inflicts on himself
23 or others.

24 3. Searching for and apprehending an inmate who escapes or attempts to
25 escape.

26 4. Quelling a riot or other disturbance in which the inmate is
27 unlawfully involved.

28 N. For purposes of this section:

29 1. "Reasonable fee" means an amount not to exceed five dollars.

30 2. "Serious physical injury" means an impairment of physical condition
31 that creates a substantial risk of death or that causes serious
32 disfigurement, prolonged impairment of health or prolonged loss or impairment
33 of the function of any bodily organ.

34 Sec. 82. Section 31-226, Arizona Revised Statutes, is amended to read:

35 31-226. Mentally disordered prisoner; procedure for voluntary
36 or involuntary hospitalization; notice; hearing;
37 transfer; reports; return to incarceration or
38 release; costs; definition

39 A. If a prisoner confined in any facility operated by the state
40 department of corrections displays symptoms of mental disorder to such a
41 degree that transfer to the state hospital or a licensed behavioral health or
42 mental health inpatient treatment facility operated by the state department
43 of corrections is necessary to ensure adequate treatment, the psychiatrist of
44 the facility, or if no psychiatrist is available, the physician at the
45 facility, shall examine the prisoner and make a written report of the

1 psychiatrist's or physician's recommendations to the director of the state
2 department of corrections. On receipt of a report that states that the
3 psychiatrist or physician finds that the symptoms described in this
4 subsection exist, the director of the state department of corrections may
5 allow the prisoner to voluntarily transfer to a licensed behavioral health or
6 mental health inpatient treatment facility operated by the state department
7 of corrections if the prisoner is an adult male, to the state hospital or a
8 licensed behavioral health treatment facility operated by the state
9 department of corrections if the prisoner is a female or to the state
10 hospital if the prisoner is a minor. If the patient does not voluntarily
11 transfer, the director shall file a petition with the superior court in the
12 county in which the prisoner is incarcerated for transfer for treatment of
13 the prisoner to the state hospital or a licensed behavioral health treatment
14 facility operated by the state department of corrections if the prisoner is a
15 female, to a licensed behavioral health or mental health inpatient treatment
16 facility operated by the state department of corrections if the prisoner is
17 an adult male or to the state hospital if the prisoner is a minor.

18 B. At least ten days before the court conducts the hearing on the
19 petition for transfer, the state department of corrections shall provide a
20 copy of the petition and written notice of the hearing to the prisoner and
21 written notice of the prisoner's rights at the hearing.

22 C. At least five days before the hearing, if the prisoner has not
23 employed counsel, the court shall appoint counsel or an independent advisor
24 to represent the prisoner at the hearing. On application by the prisoner the
25 court shall also determine the necessity for any expert testimony by medical
26 witnesses and authorize any necessary appointment and compensation for these
27 witnesses at the state's expense. Notice shall be given to the state
28 hospital if the prisoner is a female or a minor, and the state hospital shall
29 be provided with an opportunity to participate in the hearing as an
30 interested party, if it so desires.

31 D. At the hearing, the prisoner or the prisoner's representative may
32 call witnesses to testify and may confront and cross-examine witnesses called
33 by the state department of corrections except on a finding of good cause for
34 not permitting such presentation, confrontation or cross-examination.

35 E. If the prisoner is determined to be suffering from a mental
36 disorder to such a degree that transfer to the state hospital or a licensed
37 behavioral health or mental health inpatient treatment facility operated by
38 the state department of corrections is necessary to ensure adequate
39 treatment, the court shall order and direct that the prisoner be transferred
40 for treatment to the state hospital in the legal custody of the state
41 department of corrections or a licensed behavioral health treatment facility
42 operated by the state department of corrections if the prisoner is a female,
43 to a licensed behavioral health or mental health inpatient treatment facility
44 operated by the state department of corrections if the prisoner is an adult
45 male or to the state hospital if the prisoner is a minor. The transfer of

1 the prisoner to the state hospital shall be made by the state department of
2 corrections. The court order must be in writing and state the evidence
3 relied on and the reasons for transferring the prisoner.

4 F. The superintendent of the state hospital shall provide the state
5 department of corrections with a quarterly report of the condition of a
6 prisoner transferred to the state hospital. The superintendent of the state
7 hospital and the director of the state department of corrections shall also
8 provide the superior court in the county which has jurisdiction over the
9 transfer proceeding with a quarterly report of the condition of the prisoner.

10 G. If, in the opinion of the superintendent of the state hospital or
11 the director of the state department of corrections, the prisoner no longer
12 suffers from a mental disorder such that placement in the state hospital or
13 the licensed behavioral health or mental health inpatient treatment facility
14 operated by the state department of corrections is necessary to ensure
15 adequate treatment, the superintendent of the state hospital or the director
16 of the state department of corrections shall order the prisoner to a licensed
17 behavioral health treatment facility operated by the state department of
18 corrections or returned to a prison facility to serve the prisoner's
19 unexpired term, and the period the prisoner was confined in the state
20 hospital or the behavioral health or mental health treatment agency shall be
21 considered as though incarcerated in a state department of corrections
22 facility. If the term of imprisonment expires during the time the prisoner
23 is confined in the state hospital or the behavioral health or mental health
24 inpatient treatment facility, the director of the state department of
25 corrections shall issue to the prisoner an absolute discharge at that time,
26 and the prisoner's rights to release from the hospital are as provided in
27 title 36, chapter 5.

28 H. A court-ordered evaluation may be made in accordance with title 36,
29 chapter 5, article 4 if, within one hundred twenty days of the
30 prisoner's scheduled release from prison or during any time that the prisoner
31 is on release status, the prisoner appears to be, as a result of a
32 mental disorder, a danger to self or to others, or ~~gravely disabled~~ IS A
33 PRISONER WITH A GRAVE DISABILITY, and is unwilling to undergo a voluntary
34 evaluation. For the purposes of this section, an inpatient mental health
35 treatment facility operated by the state department of corrections is
36 authorized to act as a screening agency. If the court orders inpatient
37 evaluation, the order shall take effect on the day of the prisoner's
38 scheduled release, or if the prisoner is on release status, on a date
39 determined by the court, and the state department of corrections shall
40 deliver the prisoner to the evaluation agency. Thereafter, all further
41 evaluation and treatment shall be in accordance with the provisions of title
42 36, chapter 5, as they pertain to civil patients.

43 I. The state department of corrections shall pay all costs incurred
44 for the prisoner during the term of the prisoner's sentence.

1 J. The county in which the court is located shall be reimbursed for
2 expenses of the proceedings incurred by the county in accordance with section
3 31-227.

4 K. As used in this section "mental disorder" has the same meaning
5 prescribed in section 36-501.

6 Sec. 83. Section 31-239, Arizona Revised Statutes, is amended to read:
7 31-239. Utility fees

8 A. The director shall establish by rule a reasonable utility fee for
9 electrical utilities that are consumed by prisoners who are confined in a
10 correctional facility. The fee shall not exceed two dollars per month. The
11 director shall charge each prisoner who possesses at least one major
12 electrical appliance a utility fee. The director shall deduct the utility
13 fee monthly from the prisoner's spendable account.

14 B. The director shall use the monies collected pursuant to this
15 section to offset the cost of the department's utility expenses.

16 C. The director shall exempt the following prisoners from payment of
17 the utility fee:

18 1. Prisoners at reception centers.

19 2. Prisoners in the behavioral treatment unit at the special
20 management unit.

21 3. ~~Developmentally disabled~~ Prisoners **WITH DEVELOPMENTAL DISABILITIES**
22 who are housed in a special programs unit.

23 4. Prisoners who are housed in unit 8 at the Florence prison facility.

24 5. Prisoners who are inpatients at the Alhambra prison facility
25 special programs psychiatric hospital.

26 6. Prisoners who are inpatients at the Flamenco prison facility mental
27 health treatment unit.

28 D. The director shall deduct monies credited to an indigent inmate's
29 spendable account for the payment of the utility fee.

30 Sec. 84. Section 32-730, Arizona Revised Statutes, is amended to read:
31 32-730. Biennial registration; continuing professional
32 education

33 A. Except as provided in subsection ~~C~~ B of this section and in
34 section 32-4301, the board shall require every certified public accountant,
35 public accountant and firm to register once every two years with the board
36 and pay a registration fee pursuant to section 32-729.

37 B. The registration fee for certified public accountants and public
38 accountants may be reduced or waived by the board for registrants ~~who have~~
39 ~~become disabled~~ **WITH A DISABILITY** to a degree precluding the continuance of
40 their practice for six months or more prior to the due date of any renewal
41 fee.

42 C. At the time of registration, every certified public accountant and
43 public accountant, as a prerequisite to biennial registration, shall submit
44 to the board satisfactory proof in a manner prescribed by the board that the
45 registrant has completed the continuing professional education requirements

1 established by the board. The board may grant a full or partial exemption
2 from continuing professional education requirements or an extension of time
3 to complete the continuing professional education requirements for
4 registrants on a demonstration of good cause.

5 Sec. 85. Section 32-2107.01, Arizona Revised Statutes, is amended to
6 read:

7 32-2107.01. Recorded disclaimer of unlawful restrictions

8 A. The commissioner shall execute and record in the office of the
9 county recorder in each county in this state a document that disclaims the
10 validity and enforceability of certain restrictions and covenants. The
11 document shall contain a disclaimer in substantially the following form:

12 It is the law of this state that any covenants or
13 restrictions that are based on race, religion, color, ~~handicap~~
14 **DISABILITY** status or national origin are invalid and
15 unenforceable. If the invalid covenant or restriction is
16 contained in a document that is recorded in this county, it is
17 hereby declared void.

18 B. The document that is executed and recorded by the commissioner
19 shall include the legal description specified by title 11, chapter 1, article
20 1 for the appropriate county.

21 C. This section does not affect any other covenant, condition or
22 restriction.

23 Sec. 86. Section 32-2133, Arizona Revised Statutes, is amended to
24 read:

25 32-2133. Temporary broker's license

26 A. Notwithstanding any other law, the commissioner may issue a
27 temporary license as a broker to a licensed or unlicensed person for the
28 purpose of winding up the existing or pending business of a licensed broker
29 in the following cases:

30 1. To the surviving spouse or next of kin or to the administrator or
31 personal representative or the employee of the administrator or personal
32 representative of a deceased licensed broker.

33 2. To the spouse, next of kin, employee, legal guardian or conservator
34 of a licensed broker ~~disabled~~ **IN A STATE OF DISABILITY** by sickness, injury or
35 insanity.

36 B. Each temporary license is for a period of not over ninety days and
37 shall not be extended for a longer period, except that a license issued to a
38 personal representative or administrator or the employee of the personal
39 representative or administrator pursuant to subsection A, paragraph 1
40 continues until the personal representative or administrator disposes of the
41 deceased broker's business, but not to exceed a period of fifteen months.

42 C. No more than one temporary license may be issued to or with respect
43 to the same individual within any one year period.

44 D. A temporary licensee has the same license powers and obligations as
45 under a permanent license.

1 Sec. 87. Section 32-2612, Arizona Revised Statutes, is amended to
2 read:

3 32-2612. Qualifications of applicant for agency license:
4 substantiation of work experience

5 A. Each applicant, if an individual, or each associate, director or
6 manager, if the applicant is other than an individual, for an agency license
7 to be issued pursuant to this chapter shall:

8 1. Be at least twenty-one years of age.

9 2. Be a citizen or a legal resident of the United States who is
10 authorized to seek employment in the United States.

11 3. Not have been convicted of any felony or currently be under
12 indictment for a felony.

13 4. Within the five years immediately preceding the application for an
14 agency license, not have been convicted of any misdemeanor act involving:

15 (a) Personal violence or force against another person or threatening
16 to commit any act of personal violence or force against another person.

17 (b) Misconduct involving a deadly weapon as provided in section
18 13-3102.

19 (c) Dishonesty or fraud.

20 (d) Arson.

21 (e) Theft.

22 (f) Domestic violence.

23 (g) A violation of title 13, chapter 34 or 34.1 or an offense that has
24 the same elements as an offense listed in title 13, chapter 34 or 34.1.

25 (h) Sexual misconduct.

26 5. Not be on parole, on community supervision, on work furlough, on
27 home arrest, on release on any other basis or named in an outstanding arrest
28 warrant.

29 6. Not be serving a term of probation pursuant to a conviction for any
30 act of personal violence or domestic violence, as defined in section 13-3601,
31 or an offense that has the same elements as an offense listed in section
32 13-3601.

33 7. Not be either of the following:

34 (a) Adjudicated mentally incompetent.

35 (b) Found to constitute a danger to self or others or to be
36 ~~persistently or acutely disabled or gravely disabled~~ IN PERSISTENT OR ACUTE
37 DISABILITY OR GRAVE DISABILITY pursuant to section 36-540.

38 8. Not have a disability as defined in section 41-1461, unless that
39 person is a qualified individual as defined in section 41-1461.

40 9. Not have been convicted of acting or attempting to act as a
41 security guard or a security guard agency without a license if a license was
42 required.

43 10. Not be a registered sex offender.

44 B. The qualifying party for an agency license and the resident
45 manager, if a resident manager is required pursuant to section 32-2616, shall

1 have at least three years of full-time experience as a manager, supervisor or
2 administrator of a security guard agency or three years of full-time
3 supervisory experience with any federal, United States military, state,
4 county or municipal law enforcement agency. The qualifying party for an
5 agency license and the resident manager, if a resident manager is required
6 pursuant to section 32-2616, must substantiate managerial work experience
7 claimed as years of qualifying experience and provide the exact details as to
8 the character and nature of the experience on a form prescribed by the
9 department and certified by the employer. On written request, an employer
10 shall submit to the employee a written certification of prior work experience
11 within thirty calendar days. The written certification is subject to
12 independent verification by the department. If an employer goes out of
13 business, the employer shall provide registered employees with a complete and
14 accurate record of their work history. If an applicant is unable to supply
15 written certification from an employer in whole or in part, the applicant may
16 offer written certification from persons other than an employer covering the
17 same subject matter for consideration by the department. The burden of
18 proving the minimum years of experience is on the applicant.

19 C. The department may deny an agency license if the department
20 determines that the applicant is unfit based on a conviction, citation or
21 encounter with law enforcement for a statutory violation.

22 Sec. 88. Section 33-1125, Arizona Revised Statutes, is amended to
23 read:

24 33-1125. Personal items

25 The following property of a debtor used primarily for personal, family
26 or household purposes shall be exempt from process:

27 1. All wearing apparel not in excess of a fair market value of five
28 hundred dollars.

29 2. All musical instruments provided for the debtor's individual or
30 family use not in excess of an aggregate fair market value of four hundred
31 dollars.

32 3. Domestic pets, horses, milk cows and poultry not in excess of an
33 aggregate fair market value of eight hundred dollars.

34 4. All engagement and wedding rings not in excess of an aggregate fair
35 market value of two thousand dollars.

36 5. The library of a debtor, including books, manuals, published
37 materials and personal documents not in excess of an aggregate fair market
38 value of two hundred fifty dollars.

39 6. One watch not in excess of a fair market value of one hundred fifty
40 dollars.

41 7. One typewriter, one computer, one bicycle, one sewing machine, a
42 family bible, a lot in any burial ground, one shotgun or one rifle or one
43 pistol, not in excess of an aggregate fair market value of one thousand
44 dollars.

1 8. Equity in one motor vehicle not in excess of six thousand
2 dollars. If the debtor or debtor's dependent is ~~physically disabled~~ A PERSON
3 WITH A PHYSICAL DISABILITY, the equity in the motor vehicle shall not exceed
4 twelve thousand dollars.

5 9. Professionally prescribed prostheses for the debtor or a dependent
6 of the debtor, including a wheelchair.

7 Sec. 89. Section 35-701, Arizona Revised Statutes, is amended to read:
8 35-701. Definitions

9 In this chapter, unless the context otherwise requires:

10 1. "Corporation" means any corporation organized as an authority as
11 provided in this chapter.

12 2. "Designated area" means any area of this state which is either
13 designated pursuant to section 36-1479 as a slum or blighted area as defined
14 in section 36-1471, designated by regulation as a pocket of poverty or a
15 neighborhood strategy area by the United States department of housing and
16 urban development pursuant to title I of the housing and community
17 development act of 1977 (P.L. 95-128; 42 United States Code sections 5301
18 through 5320), as amended, and the department of housing and urban
19 development act (P.L. 89-174; 42 United States Code section 3535(d)) or
20 designated by the United States department of housing and urban development
21 as an empowerment or enterprise zone pursuant to the federal omnibus budget
22 reconciliation act of 1993 (P.L. 103-66; 26 United States Code section
23 1391(g)).

24 3. "Governing body" means:

25 (a) The board or body in which the general legislative powers of the
26 municipality or the county are vested.

27 (b) The Arizona board of regents with respect to a corporation formed
28 with the permission of the Arizona board of regents.

29 4. "Income" means gross earnings from wages, salary, commissions,
30 bonuses or tips from all jobs, net earnings from such person's or family's
31 own nonfarm business, professional practice or partnership, and net earnings
32 from such person's or family's own farm. Income includes income, other than
33 earnings, that consists of amounts received from social security or railroad
34 retirement, interest, dividends, veterans payments, pensions and other
35 regular payments, public assistance or welfare payments, including aid for
36 dependent children, old age assistance and aid to the blind or ~~totally~~
37 ~~disabled~~ PERSONS WITH TOTAL DISABILITY, but excluding separate payments for
38 hospital or other medical care.

39 5. "Manufactured house" means a structure that is manufactured in a
40 factory after June 15, 1976, that is delivered to a homesite in more than one
41 section and that is placed on a permanent foundation. The dimensions of the
42 completed house shall not be less than twenty feet by forty feet, the roof
43 must be sloping, the siding and roofing must be the same as those found in
44 site-built houses and the house must be eligible for thirty year real estate
45 mortgage financing.

1 6. "Municipality" or "county" means the Arizona board of regents or
2 any incorporated city or town, including charter cities, or any county in
3 this state in which a corporation may be organized and in which it is
4 contemplated the corporation will function.

5 7. "Persons of low and moderate income" means, for the purposes of
6 financing owner-occupied single family dwelling units in areas which the
7 municipality has found, pursuant to section 36-1479, to be slum or blighted
8 areas, as defined in section 36-1471, persons and families whose income does
9 not exceed two and one-half times the median family income of this state. In
10 all other areas it means persons and families whose income does not exceed
11 one and one-half times the median family income of this state.

12 8. "Project" means any land, any building or any other improvement and
13 all real and personal properties, including machinery and equipment whether
14 or not now in existence or under construction and whether located within or
15 without this state or the municipality or county approving the formation of
16 the corporation, that are suitable for any of the following:

17 (a) With respect to a corporation formed with the permission of a
18 municipality or county other than the Arizona board of regents:

19 (i) Any enterprise for the manufacturing, processing or assembling of
20 any agricultural or manufactured products.

21 (ii) Any commercial enterprise for the storing, warehousing,
22 distributing or selling of products of agriculture, mining or industry, or of
23 processes related thereto, including research and development.

24 (iii) Any office building or buildings for use as corporate or company
25 headquarters or regional offices or the adaptive use for offices of any
26 building within this state that is on the national register of historic
27 places or rehabilitation of residential buildings located in registered
28 historic neighborhoods.

29 (iv) A health care institution as defined in section 36-401.

30 (v) Residential real property for dwelling units located within the
31 municipality or county approving the formation of the corporation and, in the
32 case of a county, whether or not also within a municipality that is within
33 the county.

34 (vi) Repairing or rehabilitating single family dwelling units or
35 constructing or repairing residential fences and walls.

36 (vii) Convention or trade show facilities.

37 (viii) Airports, docks, wharves, mass commuting facilities, parking
38 facilities or storage or training facilities directly related to any of the
39 facilities as provided in this item.

40 (ix) Sewage or solid waste disposal facilities or facilities for the
41 furnishing of electric energy, gas or water.

42 (x) Industrial park facilities.

43 (xi) Air or water pollution control facilities.

44 (xii) Any educational institution that is operated by a nonprofit
45 educational organization that is exempt from taxation under section 501(c)(3)

1 of the United States internal revenue code and that is not otherwise funded
2 by state monies, any educational institution or organization that is
3 established under title 15, chapter 1, article 8 and that is owned by a
4 nonprofit organization, any private nonsectarian school or any private
5 nonsectarian organization established for the purpose of funding a joint
6 technical education school district.

7 (xiii) Research and development facilities.

8 (xiv) Commercial enterprises, including facilities for office,
9 recreational, hotel, motel and service uses if the facilities authorized by
10 this item are to be located in a designated area.

11 (xv) A child welfare agency, as defined in section 8-501, owned and
12 operated by a nonprofit organization.

13 (xvi) A transportation facility constructed or operated pursuant to
14 title 28, chapter 22.

15 (xvii) A museum operated by a nonprofit organization.

16 (xviii) Facilities owned or operated by a nonprofit organization
17 described in section 501(c) of the United States internal revenue code of
18 1986.

19 (xix) New or existing correctional facilities within this state.

20 (b) With respect to a corporation formed with the permission of the
21 Arizona board of regents, any facility consisting of classrooms, lecture
22 halls or conference centers or any facility for research and development or
23 for manufacturing, processing, assembling, marketing, storing and
24 transferring items developed through or connected with research and
25 development or in which the results of such research and development are
26 utilized, but only if the facility is located in an area designated as a
27 research park by the Arizona board of regents.

28 9. "Property" means any land, improvements thereon, buildings and any
29 improvements thereto, machinery and equipment of any and all kinds necessary
30 to a project and any other personal properties deemed necessary in connection
31 with a project.

32 10. "Research park" means an area of land that has been designated by
33 the Arizona board of regents as a research park for a university and that, at
34 the date of designation, is owned by this state or by the Arizona board of
35 regents.

36 11. "Single family dwelling unit" includes any new, used or
37 manufactured house that meets the insuring requirements of the federal
38 housing administration, the ~~veterans administration~~ UNITED STATES DEPARTMENT
39 OF VETERANS AFFAIRS or any other insuring entity of the United States
40 government or any private mortgage insurance or surety company that is
41 approved by the federal home loan mortgage corporation or the federal
42 national mortgage association.

1 Sec. 90. Section 36-104, Arizona Revised Statutes, is amended to read:
2 36-104. Powers and duties

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

7 1. Administer the following services:

8 (a) Administrative services, which shall include at a minimum the
9 functions of accounting, personnel, standards certification, electronic data
10 processing, vital statistics and the development, operation and maintenance
11 of buildings and grounds utilized by the department.

12 (b) Public health support services, which shall include at a minimum:

13 (i) Consumer health protection programs that include at least the
14 functions of community water supplies, general sanitation, vector control and
15 food and drugs.

16 (ii) Epidemiology and disease control programs that include at least
17 the functions of chronic disease, accident and injury control, communicable
18 diseases, tuberculosis, venereal disease and others.

19 (iii) Laboratory services programs.

20 (iv) Health education and training programs.

21 (v) Disposition of human bodies programs.

22 (c) Community health services, which shall include at a minimum:

23 (i) Medical services programs that include at least the functions of
24 maternal and child health, preschool health screening, family planning,
25 public health nursing, premature and newborn program, immunizations,
26 nutrition, dental care prevention and migrant health.

27 (ii) Dependency health care services programs that include at least
28 the functions of need determination, availability of health resources to
29 medically dependent individuals, quality control, utilization control and
30 industry monitoring.

31 (iii) ~~Physically disabled children's~~ CHILDREN WITH PHYSICAL
32 DISABILITIES services programs.

33 (iv) Programs for the prevention and early detection of an
34 intellectual disability.

35 (d) Program planning, which shall include at least the following:

36 (i) An organizational unit for comprehensive health planning programs.

37 (ii) Program coordination, evaluation and development.

38 (iii) Need determination programs.

39 (iv) Health information programs.

40 2. Include and administer, within the office of the director, staff
41 services, which shall include at a minimum budget preparation, public
42 information, appeals, hearings, legislative and federal government liaison,
43 grant development and management and departmental and interagency
44 coordination.

- 1 3. Make rules and regulations for the organization and proper and
2 efficient operation of the department.
- 3 4. Determine when a health care emergency or medical emergency
4 situation exists or occurs within the state that cannot be satisfactorily
5 controlled, corrected or treated by the health care delivery systems and
6 facilities available. When such a situation is determined to exist, the
7 director shall immediately report that situation to the legislature and the
8 governor. The report shall include information on the scope of the
9 emergency, recommendations for solution of the emergency and estimates of
10 costs involved.
- 11 5. Provide a system of unified and coordinated health services and
12 programs between the state and county governmental health units at all levels
13 of government.
- 14 6. Formulate policies, plans and programs to effectuate the missions
15 and purposes of the department.
- 16 7. Make contracts and incur obligations within the general scope of
17 the department's activities and operations subject to the availability of
18 funds.
- 19 8. Be designated as the single state agency for the purposes of
20 administering and in furtherance of each federally supported state plan.
- 21 9. Provide information and advice on request by local, state and
22 federal agencies and by private citizens, business enterprises and community
23 organizations on matters within the scope of the department's duties subject
24 to the departmental rules and regulations on the confidentiality of
25 information.
- 26 10. Establish and maintain separate financial accounts as required by
27 federal law or regulations.
- 28 11. Advise with and make recommendations to the governor and the
29 legislature on all matters concerning the department's objectives.
- 30 12. Take appropriate steps to reduce or contain costs in the field of
31 health services.
- 32 13. Encourage and assist in the adoption of practical methods of
33 improving systems of comprehensive planning, of program planning, of priority
34 setting and of allocating resources.
- 35 14. Encourage an effective use of available federal resources in this
36 state.
- 37 15. Research, recommend, advise and assist in the establishment of
38 community or area health facilities, both public and private, and encourage
39 the integration of planning, services and programs for the development of the
40 state's health delivery capability.
- 41 16. Promote the effective utilization of health manpower and health
42 facilities that provide health care for the citizens of this state.
- 43 17. Take appropriate steps to provide health care services to the
44 medically dependent citizens of this state.

1 18. Certify training on the nature of sudden infant death syndrome,
2 which shall include information on the investigation and handling of cases
3 involving sudden and unexplained infant death for use by law enforcement
4 officers as part of their basic training requirement.

5 19. Adopt protocols on the manner in which an autopsy shall be
6 conducted under section 11-597, subsection D in cases of sudden and
7 unexplained infant death.

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

15 21. Administer the federal family violence prevention and services act
16 grants, and the department is designated as this state's recipient of federal
17 family violence prevention and services act grants.

18 22. Accept and spend private grants of monies, gifts and devises for
19 the purposes of methamphetamine education. The department shall disburse
20 these monies to local prosecutorial or law enforcement agencies with existing
21 programs, faith based organizations and nonprofit entities that are qualified
22 under section 501(c)(3) of the United States internal revenue code, including
23 nonprofit entities providing services to women with a history of dual
24 diagnosis disorders, and that provide educational programs on the
25 repercussions of methamphetamine use. State general fund monies shall not be
26 spent for the purposes of this paragraph. If the director does not receive
27 sufficient monies from private sources to carry out the purposes of this
28 paragraph, the director shall not provide the educational programs prescribed
29 in this paragraph. Grant monies received pursuant to this paragraph are no
30 lapsing and do not revert to the state general fund at the close of the
31 fiscal year.

32 23. Identify successful methamphetamine prevention programs in other
33 states that may be implemented in this state.

34 24. Pursuant to chapter 13, article 8 of this title, coordinate all
35 public health and risk assessment issues associated with a chemical or other
36 toxic fire event if a request for the event is received from the incident
37 commander, the emergency response commission or the department of public
38 safety and if funding is available. Coordination of public health issues
39 shall include general environmental health consultation and risk assessment
40 services consistent with chapter 13, article 8 of this title and, in
41 consultation with the Arizona poison control system, informing the public as
42 to potential public health risks from the environmental exposure. Pursuant
43 to chapter 13, article 8 of this title, the department of health services
44 shall also prepare a report, in consultation with appropriate state, federal
45 and local governmental agencies, that evaluates the public health risks from

1 the environmental exposure. The department of health services' report shall
2 include any department of environmental quality report and map of smoke
3 dispersion from the fire, the results of any environmental samples taken by
4 the department of environmental quality and the toxicological implications
5 and public health risks of the environmental exposure. The department of
6 health services shall consult with the Arizona poison control system
7 regarding toxicology issues and shall prepare and produce its report for the
8 public as soon as practicable after the event. The department of health
9 services shall not use any monies pursuant to section 49-282, subsection E to
10 implement this paragraph.

11 Sec. 91. Section 36-132, Arizona Revised Statutes, is amended to read:
12 36-132. Department of health services; functions; contracts

13 A. The department shall, in addition to other powers and duties vested
14 in it by law:

15 1. Protect the health of the people of the state.

16 2. Promote the development, maintenance, efficiency and effectiveness
17 of local health departments or districts of sufficient population and area
18 that they can be sustained with reasonable economy and efficient
19 administration, provide technical consultation and assistance to local health
20 departments or districts, provide financial assistance to local health
21 departments or districts and services that meet minimum standards of
22 personnel and performance and in accordance with a plan and budget submitted
23 by the local health department or districts to the department for approval,
24 and recommend the qualifications of all personnel.

25 3. Collect, preserve, tabulate and interpret all information required
26 by law in reference to births, deaths and all vital facts, and obtain,
27 collect and preserve information relating to the health of the people of the
28 state and the prevention of diseases as may be useful in the discharge of
29 functions of the department not in conflict with the provisions of chapter 3
30 of this title, and sections 36-693, 36-694 and 39-122.

31 4. Operate such sanitariums, hospitals or other facilities assigned to
32 the department by law or by the governor.

33 5. Conduct a statewide program of health education relevant to the
34 powers and duties of the department, prepare educational materials and
35 disseminate information as to conditions affecting health, including basic
36 information for the promotion of good health on the part of individuals and
37 communities, and prepare and disseminate technical information concerning
38 public health to the health professions, local health officials and
39 hospitals. In cooperation with the department of education, the department
40 of health services shall prepare and disseminate materials and give technical
41 assistance for the purpose of education of children in hygiene, sanitation
42 and personal and public health, and provide consultation and assistance in
43 community organization to counties, communities and groups of people.

44 6. Administer or supervise a program of public health nursing,
45 prescribe the minimum qualifications of all public health nurses engaged in

1 official public health work, and encourage and aid in coordinating local
2 public health nursing services.

3 7. Encourage and aid in coordinating local programs concerning control
4 of preventable diseases in accordance with statewide plans that shall be
5 formulated by the department.

6 8. Encourage and aid in coordinating local programs concerning
7 maternal and child health, including midwifery, antepartum and postpartum
8 care, infant and preschool health and the health of school children,
9 including special fields such as the prevention of blindness and conservation
10 of sight and hearing.

11 9. Encourage and aid in the coordination of local programs concerning
12 nutrition of the people of the state.

13 10. Encourage, administer and provide dental health care services and
14 aid in coordinating local programs concerning dental public health, in
15 cooperation with the Arizona dental association. The department may bill and
16 receive payment for costs associated with providing dental health care
17 services and shall deposit the monies in the oral health fund established by
18 section 36-138.

19 11. Establish and maintain adequate serological, bacteriological,
20 parasitological, entomological and chemical laboratories with qualified
21 assistants and facilities necessary for routine examinations and analyses and
22 for investigations and research in matters affecting public health.

23 12. Supervise, inspect and enforce the rules concerning the operation
24 of public bathing places and public and semipublic swimming pools adopted
25 pursuant to section 36-136, subsection H, paragraph 10.

26 13. Take all actions necessary or appropriate to ensure that bottled
27 water sold to the public and water used to process, store, handle, serve and
28 transport food and drink are free from filth, disease-causing substances and
29 organisms and unwholesome, poisonous, deleterious or other foreign
30 substances. All state agencies and local health agencies involved with water
31 quality shall provide to the department any assistance requested by the
32 director to ensure that this paragraph is effectuated.

33 14. Enforce the state food, caustic alkali and acid laws in accordance
34 with chapter 2, article 2 of this title, chapter 8, article 1 of this title
35 and chapter 9, article 4 of this title, and collaborate in the enforcement of
36 the federal food, drug and cosmetic act of 1938 (52 Stat. 1040; 21 United
37 States Code sections 1 through 905).

38 15. Recruit and train personnel for state, local and district health
39 departments.

40 16. Conduct continuing evaluations of state, local and district public
41 health programs, study and appraise state health problems and develop broad
42 plans for use by the department and for recommendation to other agencies,
43 professions and local health departments for the best solution of these
44 problems.

1 17. License and regulate health care institutions according to chapter
2 4 of this title.

3 18. Issue or direct the issuance of licenses and permits required by
4 law.

5 19. Participate in the state civil defense program and develop the
6 necessary organization and facilities to meet wartime or other disasters.

7 20. Subject to the availability of monies, develop and administer
8 programs in perinatal health care, including:

9 (a) Screening in early pregnancy for detecting high risk conditions.

10 (b) Comprehensive prenatal health care.

11 (c) Maternity, delivery and postpartum care.

12 (d) Perinatal consultation, including transportation of the pregnant
13 woman to a perinatal care center when medically indicated.

14 (e) Perinatal education oriented toward professionals and consumers,
15 focusing on early detection and adequate intervention to avert premature
16 labor and delivery.

17 21. License and regulate the health and safety of group homes for ~~the~~
18 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES. The
19 department shall issue a license to an accredited facility for a period of
20 the accreditation, except that no licensing period shall be longer than three
21 years. The department is authorized to conduct an inspection of an
22 accredited facility to ensure that the facility meets health and safety
23 licensure standards. The results of the accreditation survey shall be public
24 information. A copy of the final accreditation report shall be filed with
25 the department of health services. For the purposes of this paragraph,
26 "accredited" means accredited by a nationally recognized accreditation
27 organization.

28 B. The department may accept from the state or federal government, or
29 any agency of the state or federal government, and from private donors,
30 trusts, foundations or eleemosynary corporations or organizations grants or
31 donations for or in aid of the construction or maintenance of any program,
32 project, research or facility authorized by this title, or in aid of the
33 extension or enforcement of any program, project or facility authorized,
34 regulated or prohibited by this title, and enter into contracts with the
35 federal government, or an agency of the federal government, and with private
36 donors, trusts, foundations or eleemosynary corporations or organizations, to
37 carry out such purposes. All monies made available under this section are
38 special project grants. The department may also expend these monies to
39 further applicable scientific research within this state.

40 C. The department, in establishing fees authorized by this section,
41 shall comply with title 41, chapter 6. The department shall not set a fee at
42 more than the department's cost of providing the service for which the fee is
43 charged. State agencies are exempt from all fees imposed pursuant to this
44 section.

1 D. The department may enter into contracts with organizations that
2 perform nonrenal organ transplant operations and organizations that primarily
3 assist in the management of end stage renal disease and related problems to
4 provide, as payors of last resort, prescription medications necessary to
5 supplement treatment and transportation to and from treatment
6 facilities. The contracts may provide for department payment of
7 administrative costs it specifically authorizes.

8 Sec. 92. Section 36-136, Arizona Revised Statutes, is amended to
9 read:

10 36-136. Powers and duties of director; compensation of
11 personnel

12 A. The director shall:

13 1. Be the executive officer of the department of health services and
14 the state registrar of vital statistics but shall not receive compensation
15 for services as registrar.

16 2. Perform all duties necessary to carry out the functions and
17 responsibilities of the department.

18 3. Prescribe the organization of the department. The director shall
19 appoint or remove personnel as necessary for the efficient work of the
20 department and shall prescribe the duties of all personnel. The director may
21 abolish any office or position in the department that the director believes
22 is unnecessary.

23 4. Administer and enforce the laws relating to health and sanitation
24 and the rules of the department.

25 5. Provide for the examination of any premises if the director has
26 reasonable cause to believe that on the premises there exists a violation of
27 any health law or rule of the state.

28 6. Exercise general supervision over all matters relating to
29 sanitation and health throughout the state. When in the opinion of the
30 director it is necessary or advisable, a sanitary survey of the whole or of
31 any part of the state shall be made. The director may enter, examine and
32 survey any source and means of water supply, sewage disposal plant, sewerage
33 system, prison, public or private place of detention, asylum, hospital,
34 school, public building, private institution, factory, workshop, tenement,
35 public washroom, public restroom, public toilet and toilet facility, public
36 eating room and restaurant, dairy, milk plant or food manufacturing or
37 processing plant, and any premises in which the director has reason to
38 believe there exists a violation of any health law or rule of the state that
39 the director has the duty to administer.

40 7. Prepare sanitary and public health rules.

41 8. Perform other duties prescribed by law.

42 B. If the director has reasonable cause to believe that there exists a
43 violation of any health law or rule of the state, the director may inspect
44 any person or property in transportation through the state, and any car,
45 boat, train, trailer, airplane or other vehicle in which that person or

1 property is transported, and may enforce detention or disinfection as
2 reasonably necessary for the public health if there exists a violation of any
3 health law or rule.

4 C. The director may deputize, in writing, any qualified officer or
5 employee in the department to do or perform on the director's behalf any act
6 the director is by law empowered to do or charged with the responsibility of
7 doing.

8 D. The director may delegate to a local health department, county
9 environmental department or public health services district any functions,
10 powers or duties that the director believes can be competently, efficiently
11 and properly performed by the local health department, county environmental
12 department or public health services district if:

13 1. The director or superintendent of the local health agency,
14 environmental agency or public health services district is willing to accept
15 the delegation and agrees to perform or exercise the functions, powers and
16 duties conferred in accordance with the standards of performance established
17 by the director.

18 2. Monies appropriated or otherwise made available to the department
19 for distribution to or division among counties or public health services
20 districts for local health work may be allocated or reallocated in a manner
21 designed to assure the accomplishment of recognized local public health
22 activities and delegated functions, powers and duties in accordance with
23 applicable standards of performance. Whenever in the director's opinion
24 there is cause, the director may terminate all or a part of any delegation
25 and may reallocate all or a part of any funds that may have been conditioned
26 on the further performance of the functions, powers or duties conferred.

27 E. The compensation of all personnel shall be as determined pursuant
28 to section 38-611.

29 F. The director may make and amend rules necessary for the proper
30 administration and enforcement of the laws relating to the public health.

31 G. Notwithstanding subsection H, paragraph 1 of this section, the
32 director may define and prescribe emergency measures for detecting,
33 reporting, preventing and controlling communicable or infectious diseases or
34 conditions if the director has reasonable cause to believe that a serious
35 threat to public health and welfare exists. Emergency measures are effective
36 for no longer than eighteen months.

37 H. The director, by rule, shall:

38 1. Define and prescribe reasonably necessary measures for detecting,
39 reporting, preventing and controlling communicable and preventable diseases.
40 The rules shall declare certain diseases reportable. The rules shall
41 prescribe measures, including isolation or quarantine, reasonably required to
42 prevent the occurrence of, or to seek early detection and alleviation of,
43 disability, insofar as possible, from communicable or preventable diseases.
44 The rules shall include reasonably necessary measures to control animal
45 diseases transmittable to humans.

1 2. Define and prescribe reasonably necessary measures, in addition to
2 those prescribed by law, regarding the preparation, embalming, cremation,
3 interment, disinterment and transportation of dead human bodies and the
4 conduct of funerals, relating to and restricted to communicable diseases and
5 regarding the removal, transportation, cremation, interment or disinterment
6 of any dead human body.

7 3. Define and prescribe reasonably necessary procedures not
8 inconsistent with law in regard to the use and accessibility of vital
9 records, delayed birth registration and the completion, change and amendment
10 of vital records.

11 4. Except as relating to the beneficial use of wildlife meat by public
12 institutions and charitable organizations pursuant to title 17, prescribe
13 reasonably necessary measures to assure that all food or drink, including
14 meat and meat products and milk and milk products sold at the retail level,
15 provided for human consumption is free from unwholesome, poisonous or other
16 foreign substances and filth, insects or disease-causing organisms. The
17 rules shall prescribe reasonably necessary measures governing the production,
18 processing, labeling, storing, handling, serving and transportation of these
19 products. The rules shall prescribe minimum standards for the sanitary
20 facilities and conditions that shall be maintained in any warehouse,
21 restaurant or other premises, except a meat packing plant, slaughterhouse,
22 wholesale meat processing plant, dairy product manufacturing plant or trade
23 product manufacturing plant. The rules shall prescribe minimum standards for
24 any truck or other vehicle in which food or drink is produced, processed,
25 stored, handled, served or transported. The rules shall provide for the
26 inspection and licensing of premises and vehicles so used, and for abatement
27 as public nuisances of any premises or vehicles that do not comply with the
28 rules and minimum standards. The rules shall provide an exemption relating
29 to food or drink that is:

30 (a) Served at a noncommercial social event that takes place at a
31 workplace, such as a potluck.

32 (b) Prepared at a cooking school that is conducted in an
33 owner-occupied home.

34 (c) Not potentially hazardous and prepared in a kitchen of a private
35 home for occasional sale or distribution for noncommercial purposes.

36 (d) Prepared or served at an employee-conducted function that lasts
37 less than four hours and is not regularly scheduled, such as an employee
38 recognition, an employee fund-raising or an employee social event.

39 (e) Offered at a child care facility and limited to commercially
40 prepackaged food that is not potentially hazardous and whole fruits and
41 vegetables that are washed and cut on site for immediate consumption.

42 (f) Offered at locations that sell only commercially prepackaged food
43 or drink that is not potentially hazardous.

44 (g) Baked and confectionary goods that are not potentially hazardous
45 and that are prepared in a kitchen of a private home for commercial purposes

1 if packaged with a label that clearly states the address of the maker,
2 includes contact information for the maker, lists all the ingredients in the
3 product and discloses that the product was prepared in a home. The label
4 must be given to the final consumer of the product. If the product was made
5 in a facility for ~~developmentally disabled~~ individuals WITH DEVELOPMENTAL
6 DISABILITIES, the label must also disclose that fact. The person preparing
7 the food or supervising the food preparation must obtain a food handler's
8 card or certificate if one is issued by the local county and must register
9 with an online registry established by the department pursuant to paragraph
10 13 of this subsection. For the purposes of this subdivision, "potentially
11 hazardous" means baked and confectionary goods that meet the requirements of
12 the food code published by the United States food and drug administration, as
13 modified and incorporated by reference by the department by rule.

14 5. Prescribe reasonably necessary measures to assure that all meat and
15 meat products for human consumption handled at the retail level are delivered
16 in a manner and from sources approved by the Arizona department of
17 agriculture and are free from unwholesome, poisonous or other foreign
18 substances and filth, insects or disease-causing organisms. The rules shall
19 prescribe standards for sanitary facilities to be used in identity, storage,
20 handling and sale of all meat and meat products sold at the retail level.

21 6. Prescribe reasonably necessary measures regarding production,
22 processing, labeling, handling, serving and transportation of bottled water
23 to assure that all bottled drinking water distributed for human consumption
24 is free from unwholesome, poisonous, deleterious or other foreign substances
25 and filth or disease-causing organisms. The rules shall prescribe minimum
26 standards for the sanitary facilities and conditions that shall be maintained
27 at any source of water, bottling plant and truck or vehicle in which bottled
28 water is produced, processed, stored or transported and shall provide for
29 inspection and certification of bottled drinking water sources, plants,
30 processes and transportation and for abatement as a public nuisance of any
31 water supply, label, premises, equipment, process or vehicle that does not
32 comply with the minimum standards. The rules shall prescribe minimum
33 standards for bacteriological, physical and chemical quality for bottled
34 water and for the submission of samples at intervals prescribed in the
35 standards.

36 7. Define and prescribe reasonably necessary measures governing ice
37 production, handling, storing and distribution to assure that all ice sold or
38 distributed for human consumption or for the preservation or storage of food
39 for human consumption is free from unwholesome, poisonous, deleterious or
40 other foreign substances and filth or disease-causing organisms. The rules
41 shall prescribe minimum standards for the sanitary facilities and conditions
42 and the quality of ice that shall be maintained at any ice plant, storage and
43 truck or vehicle in which ice is produced, stored, handled or transported and
44 shall provide for inspection and licensing of the premises and vehicles, and

1 for abatement as public nuisances of ice, premises, equipment, processes or
2 vehicles that do not comply with the minimum standards.

3 8. Define and prescribe reasonably necessary measures concerning
4 sewage and excreta disposal, garbage and trash collection, storage and
5 disposal, and water supply for recreational and summer camps, campgrounds,
6 motels, tourist courts, trailer coach parks and hotels. The rules shall
7 prescribe minimum standards for preparation of food in community kitchens,
8 adequacy of excreta disposal, garbage and trash collection, storage and
9 disposal and water supply for recreational and summer camps, campgrounds,
10 motels, tourist courts, trailer coach parks and hotels and shall provide for
11 inspection of these premises and for abatement as public nuisances of any
12 premises or facilities that do not comply with the rules.

13 9. Define and prescribe reasonably necessary measures concerning the
14 sewage and excreta disposal, garbage and trash collection, storage and
15 disposal, water supply and food preparation of all public schools. The rules
16 shall prescribe minimum standards for sanitary conditions that shall be
17 maintained in any public school and shall provide for inspection of these
18 premises and facilities and for abatement as public nuisances of any premises
19 that do not comply with the minimum standards.

20 10. Prescribe reasonably necessary measures to prevent pollution of
21 water used in public or semipublic swimming pools and bathing places and to
22 prevent deleterious health conditions at these places. The rules shall
23 prescribe minimum standards for sanitary conditions that shall be maintained
24 at any public or semipublic swimming pool or bathing place and shall provide
25 for inspection of these premises and for abatement as public nuisances of any
26 premises and facilities that do not comply with the minimum standards. The
27 rules shall be developed in cooperation with the director of the department
28 of environmental quality and shall be consistent with the rules adopted by
29 the director of the department of environmental quality pursuant to
30 section 49-104, subsection B, paragraph 12.

31 11. Prescribe reasonably necessary measures to keep confidential
32 information relating to diagnostic findings and treatment of patients, as
33 well as information relating to contacts, suspects and associates of
34 communicable disease patients. In no event shall confidential information be
35 made available for political or commercial purposes.

36 12. Prescribe reasonably necessary measures regarding human
37 immunodeficiency virus testing as a means to control the transmission of that
38 virus, including the designation of anonymous test sites as dictated by
39 current epidemiologic and scientific evidence.

40 13. Establish an online registry of food preparers that are authorized
41 to prepare food for commercial purposes pursuant to paragraph 4 of this
42 subsection.

43 I. The rules adopted under the authority conferred by this section
44 shall be observed throughout the state and shall be enforced by each local
45 board of health or public health services district, but this section does not

1 limit the right of any local board of health or county board of supervisors
2 to adopt ordinances and rules as authorized by law within its jurisdiction,
3 provided that the ordinances and rules do not conflict with state law and are
4 equal to or more restrictive than the rules of the director.

5 J. The powers and duties prescribed by this section do not apply in
6 instances in which regulatory powers and duties relating to public health are
7 vested by the legislature in any other state board, commission, agency or
8 instrumentality, except that with regard to the regulation of meat and meat
9 products, the department of health services and the Arizona department of
10 agriculture within the area delegated to each shall adopt rules that are not
11 in conflict.

12 K. The director, in establishing fees authorized by this section,
13 shall comply with title 41, chapter 6. The department shall not set a fee at
14 more than the department's cost of providing the service for which the fee is
15 charged. State agencies are exempt from all fees imposed pursuant to this
16 section.

17 L. After consultation with the state superintendent of public
18 instruction, the director shall prescribe the criteria the department shall
19 use in deciding whether or not to notify a local school district that a pupil
20 in the district has tested positive for the human immunodeficiency virus
21 antibody. The director shall prescribe the procedure by which the department
22 shall notify a school district if, pursuant to these criteria, the department
23 determines that notification is warranted in a particular situation. This
24 procedure shall include a requirement that before notification the department
25 shall determine to its satisfaction that the district has an appropriate
26 policy relating to nondiscrimination of the infected pupil and
27 confidentiality of test results and that proper educational counseling has
28 been or will be provided to staff and pupils.

29 M. Until the department adopts exemptions by rule as required by
30 subsection H, paragraph 4, subdivision (f) of this section, food and drink is
31 exempt from the rules prescribed in subsection H of this section if offered
32 at locations that sell only commercially prepackaged food or drink that is
33 not potentially hazardous, without a limitation on its display area.

34 Sec. 93. Section 36-203, Arizona Revised Statutes, is amended to read:

35 36-203. Persons with intellectual disabilities assigned to
36 state hospital; duties of division

37 A. The division shall develop and provide, in coordination with the
38 department of economic security, specialized treatment programs for persons
39 with an intellectual disability who have been admitted to the state
40 hospital. The division may contract with the department of economic security
41 in providing these programs.

42 B. The division, to the extent practicable, shall provide separate
43 areas at the state hospital for persons diagnosed ~~as intellectually disabled~~
44 **WITH INTELLECTUAL DISABILITIES** and, to the extent practicable, shall provide
45 that treatment programs developed pursuant to subsection A of this section

1 are separate from treatment programs for other patients and for separate use
2 of facilities by persons diagnosed ~~as intellectually disabled~~ WITH
3 INTELLECTUAL DISABILITIES.

4 C. The division, on request of a parent or guardian of a minor with an
5 intellectual disability or the guardian of an adult with an intellectual
6 disability or on the request of an adult with an intellectual disability,
7 shall notify the department of economic security before the release of that
8 person from the state hospital and request that the department of economic
9 security provide placement evaluation and case management services for that
10 person. The evaluation shall consider the person's needs for housing, day
11 programs, employment training, employment and support services.

12 D. The division, on the application of a parent or guardian of a minor
13 with an intellectual disability or the guardian of ~~a mentally retarded~~ AN
14 adult WITH AN INTELLECTUAL DISABILITY or on the request of an adult with an
15 intellectual disability, when the person has been authorized for discharge
16 from the state hospital, may provide interim care and custody for that person
17 pending the availability of intellectual disability programs and services in
18 accordance with section 36-556.

19 Sec. 94. Section 36-260, Arizona Revised Statutes, is amended to read:

20 36-260. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Administration" means the Arizona health care cost containment
23 system administration.

24 2. "Chronically ill or ~~physically disabled~~ children WITH PHYSICAL
25 DISABILITIES" means children who are under twenty-one years of age and whose
26 primary diagnosis is a severe physical condition that may require ongoing,
27 medical or surgical intervention.

28 3. "Director" means the director of the Arizona health care cost
29 containment system administration.

30 Sec. 95. Section 36-261, Arizona Revised Statutes, is amended to read:

31 36-261. Powers and duties; expenditure limitation

32 A. The Arizona health care cost containment system administration
33 shall:

34 1. Employ a full-time or part-time medical director and a full-time or
35 part-time administrator for children's rehabilitative services who shall have
36 such titles and duties as shall be fixed by the director. Compensation of
37 the medical director and the administrator shall be as determined pursuant to
38 section 38-611.

39 2. Supervise, control and establish policies for children's
40 rehabilitative services.

41 3. Adopt all rules and policies for the operation of a children's
42 rehabilitative services program.

43 4. Employ necessary medical and other staff, including resident
44 physicians, whose compensation shall be as determined pursuant to section
45 38-611.

1 5. Establish and administer a program of service for children who are
2 chronically ill or ~~physically disabled~~ CHILDREN WITH PHYSICAL DISABILITIES or
3 who are suffering from conditions that lead to a chronic illness or physical
4 disabilities. The program shall provide for:

5 (a) Development, extension and improvement of services for locating
6 these children.

7 (b) Furnishing of medical, surgical, corrective and other services and
8 care.

9 (c) Furnishing of facilities for diagnosis, hospitalization and
10 aftercare.

11 (d) Supervision of the administration of services in the program that
12 are not administered directly by the administration.

13 (e) The extension and improvement of any services included in the
14 program of services for chronically ill or ~~physically disabled~~ children WITH
15 PHYSICAL DISABILITIES as required by this section.

16 (f) Cooperation with medical, health, nursing and welfare groups and
17 organizations and with any agency of the state charged with administration of
18 laws providing for vocational rehabilitation of ~~physically disabled~~ children
19 WITH PHYSICAL DISABILITIES.

20 (g) Cooperation with the federal government through its appropriate
21 agency or instrumentality in developing, extending and improving services for
22 chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

23 (h) Receipt and expenditure of funds made available to the
24 administration for services to chronically ill or ~~physically disabled~~
25 children WITH PHYSICAL DISABILITIES by the federal government, this state or
26 its political subdivisions or from other sources, excluding monies received
27 from parents or guardians for the care of children.

28 (i) Carrying on research and compiling statistics.

29 (j) Making necessary expenditures in connection with the duties
30 provided in this section.

31 (k) Establishing and maintaining safeguards relating to the
32 confidential aspect of medical records.

33 (l) Acceptance and use of federal funds for children's rehabilitative
34 services at the discretion of the administration and subject to any
35 limitations imposed by the annual state appropriation bill.

36 (m) Such other duties found necessary for the effective operation of a
37 program for chronically ill or ~~physically disabled~~ children WITH PHYSICAL
38 DISABILITIES.

39 6. Establish a statewide computerized information and referral service
40 for chronically ill or ~~physically disabled~~ children WITH PHYSICAL
41 DISABILITIES to link those children and their families with local service
42 providers.

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

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

4 B. In order to carry out subsection A of this section, the director
5 may operate outpatient treatment facilities for chronically ill or ~~physically~~
6 ~~disabled~~ children WITH PHYSICAL DISABILITIES and shall contract on the basis
7 of competitive sealed bids for the care and treatment of chronically ill or
8 ~~physically disabled~~ children WITH PHYSICAL DISABILITIES pursuant to
9 subsection C of this section.

10 C. The director shall prepare and issue a public request for proposal
11 including a proposed contract format, at least once every four years, to
12 contract for the care and treatment of chronically ill or ~~physically disabled~~
13 children WITH PHYSICAL DISABILITIES subject to the following authorizations
14 and limitations:

15 1. The scope of the contracted services shall include inpatient
16 treatment services, physician services and other care and treatment services
17 and outpatient treatment services that shall not be mandated at a single
18 location.

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

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

30 4. The administration may award a contract at an amount less than the
31 amount bid, by use of any procedure authorized by the procurement code.

32 5. If the director receives an insufficient number of bids for a
33 category of services or in a medical emergency, the director may contract
34 directly for these services.

35 6. An invitation for bids, a request for proposals or any other
36 solicitation may be cancelled or any or all bids or proposals may be rejected
37 in whole or in part as may be specified in the solicitation if it is in the
38 best interests of this state. The reasons for the cancellation or rejection
39 shall be made part of the contract file. If the amount appropriated for
40 services provided pursuant to this section is insufficient to pay for the
41 scope of services as bid, the director may reduce the scope of services to
42 reflect the amount appropriated or may cancel any invitation for bids,
43 requests for proposals or other solicitation and contract directly for these
44 services. Reductions or suspensions do not apply to the continuity of care

1 for persons already receiving the services. Any decision to reduce services
2 shall be made independently from any other modification of services.

3 7. Title 41, chapter 23 shall apply to the procurement process
4 prescribed in this section to the extent that it is not inconsistent with
5 this section. The director may vary the bid format and the terms of the
6 request for proposal each bid term.

7 D. In awarding contracts for inpatient and outpatient treatment
8 services under this section, the administration shall use the following
9 criteria in addition to other consistent criteria:

10 1. Cost to this state.

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

13 E. If the provision of any services pursuant to this section requires
14 compliance with chapter 4, article 2 of this title, the contractor shall
15 comply before commencement of services pursuant to this section.

16 F. Subject to the availability of appropriations, the administration
17 may provide or arrange for the provision of health services and supervisory
18 care for child patients of other state agencies.

19 G. The administration, through the children's rehabilitative services
20 division, may establish and administer a program for children with sickle
21 cell anemia, as provided for in section 36-797.43.

22 H. The administration, through the children's rehabilitative services
23 division, may establish and administer a program for adults with sickle cell
24 anemia, as provided for in section 36-797.44.

25 I. The director may provide for the education of inpatients at any
26 facility that contracts with the director to provide care and treatment of
27 chronically ill or ~~physically disabled~~ children WITH PHYSICAL
28 DISABILITIES. The director shall include in the director's annual proposed
29 budget a request for sufficient monies to finance the education of inpatients
30 as authorized in this subsection.

31 J. The total amount of state monies that may be spent in any fiscal
32 year by the administration for children's rehabilitative services shall not
33 exceed the amount appropriated or authorized by section 35-173 for that
34 purpose. This section does not impose a duty on an officer, agent or
35 employee of this state to discharge a responsibility or to create any right
36 in a person or group if the discharge or right would require an expenditure
37 of state monies in excess of the expenditure authorized by legislative
38 appropriation for that specific purpose.

39 Sec. 96. Section 36-262, Arizona Revised Statutes, is amended to read:

40 36-262. Central statewide information and referral service for
41 chronically ill or children with physical
42 disabilities

43 A. The purposes of the information and referral service for
44 chronically ill or ~~physically disabled~~ children WITH PHYSICAL DISABILITIES as
45 prescribed pursuant to this article are to:

1 1. Establish a roster of agencies providing medical, educational,
2 financial, social and transportation services to chronically ill or
3 ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

4 2. Develop or use an existing statewide, computerized information and
5 referral service that provides information on services for chronically ill or
6 ~~physically disabled~~ children WITH PHYSICAL DISABILITIES.

7 B. This section does not require any person or public or private
8 agency or other entity to participate in the information and referral
9 service.

10 Sec. 97. Section 36-263, Arizona Revised Statutes, is amended to read:
11 36-263. Eligibility for children's rehabilitative services

12 A. Any chronically ill or ~~physically disabled~~ person WITH PHYSICAL
13 DISABILITIES or the person's parent or legal guardian who applies for
14 children's rehabilitative services is subject to a preliminary financial
15 screening process developed by the administration at the initial intake
16 level. If the results of a screening indicate that a child may be title XIX
17 eligible, in order to continue to receive services pursuant to this article
18 the applicant must then submit a complete application within ten working days
19 to the department of economic security, or the administration, which shall
20 determine the applicant's eligibility pursuant to section 36-2901, paragraph
21 6, subdivision (a) or section 36-2931, paragraph 5 for health and medical or
22 long-term care services. If the person is in need of emergency services
23 provided pursuant to this article, the person may begin to receive these
24 services immediately, provided that within five days from the date of service
25 a financial screen is initiated.

26 B. Applicants who refuse to cooperate in the financial screen and
27 eligibility process are not eligible for services pursuant to this
28 article. A form explaining loss of benefits due to refusal to cooperate
29 shall be signed by the applicant. Refusal to cooperate shall not be
30 construed to mean the applicant's inability to obtain documentation required
31 for eligibility determination.

32 C. The department of economic security, in coordination with the
33 administration, shall provide on-site eligibility determination at
34 appropriate program locations subject to legislative appropriation.

35 D. This section only applies to persons who receive services that are
36 provided pursuant to this section and that are paid for in whole or in part
37 with state funds.

38 E. Notwithstanding any other law, the administration shall not provide
39 services in the children's rehabilitative services non-title XIX program to
40 persons who are not citizens of the United States or who do not meet the
41 alienage requirements that are established pursuant to title XIX of the
42 social security act. This subsection does not apply to persons who are
43 receiving services before August 6, 1999.

1 Sec. 98. Section 36-481, Arizona Revised Statutes, is amended to
2 read:

3 36-481. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Acquire" means purchase, lease as lessee, obtain an interest as
6 mortgagee or beneficiary under a deed of trust, erect, build, construct,
7 reconstruct, remodel, repair, replace, alter, extend, better, equip, furnish,
8 develop, improve or embellish any health care facility, or site acquisition,
9 preparation and development and all incidental expenditures.

10 2. "Agreement" means any loan or other agreement, contract, note,
11 mortgage, deed of trust, trust indenture, lease, sublease or other such
12 instrument entered into by the authority.

13 3. "Authority" means the Arizona health facilities authority.

14 4. "Board" means the board of directors of the authority.

15 5. "Bonds" means any bonds issued pursuant to this chapter and
16 includes any obligation, in any form, entered into by the authority that pays
17 interest that is exempt from gross income pursuant to 26 United States Code
18 section 103.

19 6. "Costs" means all costs incurred in the issuance of bonds,
20 including, but not limited to, legal, accounting, consulting, printing,
21 advertising and travel expenses, plus an amount equal to not more than
22 one-tenth of one per cent of the principal amount of any bonds issued to be
23 used to defray the authority's operational and administrative costs and may
24 also include interest on bonds issued pursuant to this chapter for a
25 reasonable time prior to and during construction and after completion of
26 construction of any project.

27 7. "Federal agency" means the United States, the President of the
28 United States, the department of health and human services, the department of
29 the treasury or any other agency or agencies of the United States as may be
30 designated or created to make loans or grants or both.

31 8. "Health care facility" or "project" means a structure suitable for
32 use as a hospital, either general or specializing in the treatment of certain
33 diseases, or suitable for use as a clinic, rehabilitation center, therapy
34 facility, outpatient clinic, nursing home, blood bank, ambulance facility,
35 extended care facility or other health care facility or any combination of
36 the foregoing and includes all the customary and necessary supporting
37 services and equipment such as dispensary, pharmacy, parking facilities,
38 laundry facilities, nurses' and interns' residences, offices and
39 administration buildings, living facilities for the elderly or **disabled**
40 **PERSONS WITH A DISABILITY**, cafeterias and food service facilities, research,
41 laboratory and diagnostic facilities, education facilities, medical and
42 surgical equipment, tools and machinery, but not such items as fuel or stored
43 energy and supplies or disposable items that are customarily deemed to result
44 in a current operating charge wherever situated.

1 9. "Participating facility" means a corporation, limited liability
2 company, partnership or other entity that is specifically empowered to
3 operate and maintain one or more health facilities, the university of Arizona
4 hospital and any political subdivisions specifically empowered to lease as
5 lessee one or more health care facilities.

6 10. "Trustee" means any bank or trust company with authority to
7 exercise trust powers in this state.

8 Sec. 99. Section 36-501, Arizona Revised Statutes, is amended to read:
9 36-501. Definitions

10 In this chapter, unless the context otherwise requires:

11 1. "Admitting officer" means a psychiatrist or other physician or
12 psychiatric and mental health nurse practitioner with experience in
13 performing psychiatric examinations who has been designated as an admitting
14 officer of the evaluation agency by the person in charge of the evaluation
15 agency.

16 2. "Chief medical officer" means the chief medical officer under the
17 supervision of the superintendent of the state hospital.

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

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

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

28 6. "Danger to self":

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

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

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

37 (b) Does not include behavior that establishes only the condition of
38 ~~gravely disabled~~ PERSONS WITH GRAVE DISABILITIES.

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

40 8. "Deputy director" means the deputy director of the division of
41 behavioral health in the department of health services.

42 9. "Detention" means the taking into custody of a patient or proposed
43 patient.

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

1 11. "Division" means the division of behavioral health in the
2 department.

3 12. "Evaluation" means:

4 (a) A professional multidisciplinary analysis that may include
5 firsthand observations or remote observations by interactive audiovisual
6 media and that is based on data describing the person's identity, biography
7 and medical, psychological and social conditions carried out by a group of
8 persons consisting of not less than the following:

9 (i) Two licensed physicians, who shall be qualified psychiatrists, if
10 possible, or at least experienced in psychiatric matters, and who shall
11 examine and report their findings independently. The person against whom a
12 petition has been filed shall be notified that the person may select one of
13 the physicians. A psychiatric resident in a training program approved by the
14 American medical association or by the American osteopathic association may
15 examine the person in place of one of the psychiatrists if the resident is
16 supervised in the examination and preparation of the affidavit and testimony
17 in court by a qualified psychiatrist appointed to assist in the resident's
18 training, and if the supervising psychiatrist is available for discussion
19 with the attorneys for all parties and for court appearance and testimony if
20 requested by the court or any of the attorneys.

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

27 (b) A physical examination that is consistent with the existing
28 standards of care and that is performed by one of the evaluating physicians
29 or by or under the supervision of a physician who is licensed pursuant to
30 title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed
31 pursuant to title 32, chapter 15 if the results of that examination are
32 reviewed or augmented by one of the evaluating physicians.

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

36 14. "Family member" means a spouse, parent, adult child, adult sibling
37 or other blood relative of a person undergoing treatment or evaluation
38 pursuant to this chapter.

39 ~~16-~~ 15. "Health care decision maker" has the same meaning prescribed
40 in section 12-2801.

41 ~~17-~~ 16. "Health care entity" means a health care provider, the
42 department, the Arizona health care cost containment system administration or
43 a regional behavioral health authority under contract with the department.

1 ~~18-~~ 17. "Health care provider" means a health care institution as
2 defined in section 36-401 that is licensed as a behavioral health provider
3 pursuant to department rules or a mental health provider.

4 ~~19-~~ 18. "Independent evaluator" means a licensed physician,
5 psychiatric and mental health nurse practitioner or psychologist selected by
6 the person to be evaluated or by such person's attorney.

7 ~~20-~~ 19. "Informed consent" means a voluntary decision following
8 presentation of all facts necessary to form the basis of an intelligent
9 consent by the patient or guardian with no minimizing of known dangers of any
10 procedures.

11 ~~21-~~ 20. "Least restrictive treatment alternative" means the treatment
12 plan and setting that infringe in the least possible degree with the
13 patient's right to liberty and that are consistent with providing needed
14 treatment in a safe and humane manner.

15 ~~22-~~ 21. "Licensed physician" means any medical doctor or doctor of
16 osteopathy who is either:

17 (a) Licensed in this state.

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

21 ~~23-~~ 22. "Medical director of an evaluation agency" means a
22 psychiatrist, or other licensed physician experienced in psychiatric matters,
23 who is designated in writing by the governing body of the agency as the
24 person in charge of the medical services of the agency for the purposes of
25 this chapter and may include the chief medical officer of the state hospital.

26 ~~24-~~ 23. "Medical director of a mental health treatment agency" means a
27 psychiatrist, or other licensed physician experienced in psychiatric matters,
28 who is designated in writing by the governing body of the agency as the
29 person in charge of the medical services of the agency for the purposes of
30 this chapter and includes the chief medical officer of the state hospital.

31 ~~25-~~ 24. "Mental disorder" means a substantial disorder of the person's
32 emotional processes, thought, cognition or memory. Mental disorder is
33 distinguished from:

34 (a) Conditions that are primarily those of drug abuse, alcoholism or
35 intellectual disability, unless, in addition to one or more of these
36 conditions, the person has a mental disorder.

37 (b) The declining mental abilities that directly accompany impending
38 death.

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

43 ~~26-~~ 25. "Mental health provider" means any physician or provider of
44 mental health or behavioral health services involved in evaluating, caring
45 for, treating or rehabilitating a patient.

1 ~~27.~~ 26. "Mental health treatment agency" means the state hospital or a
2 health care agency that is licensed by the department and that provides those
3 services that are required of the agency by this chapter.
4 ~~28.~~ 27. "Outpatient treatment" or "combined inpatient and outpatient
5 treatment" means any treatment program not requiring continuous inpatient
6 hospitalization.
7 ~~29.~~ 28. "Outpatient treatment plan" means a treatment plan that does
8 not require continuous inpatient hospitalization.
9 ~~30.~~ 29. "Patient" means any person undergoing examination, evaluation
10 or behavioral or mental health treatment under this chapter.
11 ~~31.~~ 30. "Peace officers" means sheriffs of counties, constables,
12 marshals and policemen of cities and towns.
13 ~~32.~~ 31. "~~Persistently or acutely disabled~~ PERSISTENT OR ACUTE
14 DISABILITY" means a severe mental disorder that meets all the following
15 criteria:
16 (a) If not treated has a substantial probability of causing the person
17 to suffer or continue to suffer severe and abnormal mental, emotional or
18 physical harm that significantly impairs judgment, reason, behavior or
19 capacity to recognize reality.
20 (b) Substantially impairs the person's capacity to make an informed
21 decision regarding treatment, and this impairment causes the person to be
22 incapable of understanding and expressing an understanding of the advantages
23 and disadvantages of accepting treatment and understanding and expressing an
24 understanding of the alternatives to the particular treatment offered after
25 the advantages, disadvantages and alternatives are explained to that person.
26 (c) Has a reasonable prospect of being treatable by outpatient,
27 inpatient or combined inpatient and outpatient treatment.
28 ~~15.~~ 32. "~~Gravely disabled~~ PERSONS WITH GRAVE DISABILITIES" means a
29 condition evidenced by behavior in which a person, as a result of a mental
30 disorder, is likely to come to serious physical harm or serious illness
31 because the person is unable to provide for the person's own basic physical
32 needs.
33 33. "Prepetition screening" means the review of each application
34 requesting court-ordered evaluation, including an investigation of facts
35 alleged in such application, an interview with each applicant and an
36 interview, if possible, with the proposed patient. The purpose of the
37 interview with the proposed patient is to assess the problem, explain the
38 application and, when indicated, attempt to persuade the proposed patient to
39 receive, on a voluntary basis, evaluation or other services.
40 34. "Prescribed form" means a form established by a court or the rules
41 of the division that have been approved by the director or in accordance with
42 the laws of this state.
43 35. "Professional" means a physician who is licensed pursuant to title
44 32, chapter 13 or 17, a psychologist who is licensed pursuant to title 32,

1 chapter 19.1 or a psychiatric and mental health nurse practitioner who is
2 certified pursuant to title 32, chapter 15.

3 36. "Proposed patient" means a person for whom an application for
4 evaluation has been made or a petition for court-ordered evaluation has been
5 filed.

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

11 38. "Psychiatrist" means a licensed physician who has completed three
12 years of graduate training in psychiatry in a program approved by the
13 American medical association or the American osteopathic association.

14 39. "Psychologist" means a person who is licensed under title 32,
15 chapter 19.1 and who is experienced in the practice of clinical psychology.

16 40. "Records" means all communications that are recorded in any form or
17 medium and that relate to patient examination, evaluation or behavioral or
18 mental health treatment. Records include medical records that are prepared
19 by a health care provider or other providers. Records do not include:

20 (a) Materials that are prepared in connection with utilization review,
21 peer review or quality assurance activities, including records that a health
22 care provider prepares pursuant to section 36-441, 36-445, 36-2402 or
23 36-2917.

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

27 41. "Screening agency" means a health care agency that is licensed by
28 the department and that provides those services required of such agency by
29 this chapter.

30 42. "Social worker" means a person who has completed two years of
31 graduate training in social work in a program approved by the council of
32 social work education and who has experience in mental health.

33 43. "State hospital" means the Arizona state hospital.

34 44. "Superintendent" means the superintendent of the state hospital.

35 Sec. 100. Section 36-519, Arizona Revised Statutes, is amended to
36 read:

37 36-519. Discharge of voluntary patients

38 A. The medical director of the agency shall discharge any patient
39 admitted voluntarily who has recovered or who is no longer benefiting from
40 the evaluation, care or treatment available, except as provided in subsection
41 B of this section.

42 B. Upon written request by a patient admitted pursuant to section
43 36-518, subsection A or by the parent, guardian or custodian of a patient
44 admitted pursuant to section 36-518, subsection C, the patient shall be given
45 a discharge within twenty-four hours after the request, excluding weekends or

1 holidays unless the medical director of the agency has proceeded pursuant to
2 section 36-531, subsections B and C and section 36-533. The costs of such
3 proceedings shall be a charge against the county of the patient's residence.

4 C. If the medical director of the agency finds that a patient admitted
5 voluntarily is ~~gravely disabled~~ A PERSON WITH A GRAVE DISABILITY and requires
6 the service of a guardian or conservator or both for the protection of health
7 and property, he shall proceed pursuant to section 36-531, subsections B and
8 C and section 36-533 unless it is appropriate to discharge the patient to
9 suitable alternative arrangements for care, treatment and protection.

10 Sec. 101. Section 36-520, Arizona Revised Statutes, is amended to
11 read:

12 36-520. Application for evaluation; definition

13 A. Any responsible individual may apply for a court-ordered evaluation
14 of a person who is alleged to be, as a result of a mental disorder, a danger
15 to self or to others, ~~persistently or acutely disabled, or gravely disabled~~ A
16 PERSON WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and who is
17 unwilling or unable to undergo a voluntary evaluation. The application shall
18 be made in the prescribed form and manner as adopted by the deputy director.

19 B. The application for evaluation shall include the following data:

20 1. The name, and address if known, of the proposed patient for whom
21 evaluation is applied.

22 2. The age, date of birth, sex, race, marital status, occupation,
23 social security number, present location, dates and places of previous
24 hospitalizations, names and addresses of the guardian, spouse, next of kin
25 and significant other persons and other data that the deputy director may
26 require on the form to whatever extent that this data is known and is
27 applicable to the proposed patient.

28 3. The name, address and relationship of the person who is applying
29 for the evaluation.

30 4. A statement that the proposed patient is believed to be, as a
31 result of a mental disorder, a danger to self or to others, ~~persistently or~~
32 ~~acutely disabled or gravely disabled~~ A PATIENT WITH A PERSISTENT OR ACUTE
33 DISABILITY OR A GRAVE DISABILITY and the facts on which this statement is
34 based.

35 5. A statement that the applicant believes the proposed patient is in
36 need of supervision, care and treatment and the facts on which this statement
37 is based.

38 C. The application shall be signed and notarized.

39 D. The screening agency shall offer assistance to the applicant in
40 preparation of the application. Upon receipt of the application, the
41 screening agency shall act as prescribed in section 36-521 within forty-eight
42 hours of the filing of the application excluding weekends and holidays. If
43 the application is not acted upon within forty-eight hours, the reasons for
44 not acting promptly shall be reviewed by the director of the screening agency
45 or the director's designee.

1 E. If the applicant for the court-ordered evaluation presents the
2 person to be evaluated at the screening agency, the agency shall conduct a
3 prepetition screening examination. Except in the case of an emergency
4 evaluation, the person to be evaluated shall not be detained or forced to
5 undergo prepetition screening against the person's will.

6 F. If the applicant for the court-ordered evaluation does not present
7 the person to be evaluated at the screening agency, the agency shall conduct
8 the prepetition screening at the home of the person to be evaluated or any
9 other place the person to be evaluated is found. If prepetition screening is
10 not possible, the screening agency shall proceed as in section 36-521,
11 subsection B.

12 G. If a person is being treated by prayer or spiritual means alone in
13 accordance with the tenets and practices of a recognized church or religious
14 denomination by a duly accredited practitioner of that church or
15 denomination, such person may not be ordered evaluated, detained or
16 involuntarily treated unless the court has determined that the person is, as
17 a result of mental disorder, a danger to others or to self.

18 H. Court-ordered evaluation or treatment pursuant to this chapter
19 shall not operate to change the legal residence of a patient.

20 I. If the application is not acted upon because it has been determined
21 that the proposed patient does not need an evaluation, the agency after a
22 period of six months shall destroy the application and any other evidence of
23 the application.

24 J. For the purposes of this section, "person" includes a person who:

25 1. Is under eighteen years of age.

26 2. Has been transferred to the criminal division of the superior court
27 pursuant to section 8-327 or who has been charged with an offense pursuant to
28 section 13-501.

29 3. Is under the supervision of an adult probation department.

30 Sec. 102. Section 36-521, Arizona Revised Statutes, is amended to
31 read:

32 36-521. Preparation of petition for court-ordered evaluation:
33 procedures for prepetition screening

34 A. Upon receiving the application for evaluation, the screening agency
35 shall, prior to filing a petition for court-ordered evaluation, provide
36 prepetition screening within forty-eight hours excluding weekends and
37 holidays when possible to determine whether there is reasonable cause to
38 believe the allegations of the applicant for the court-ordered evaluation,
39 whether the person will voluntarily receive evaluation at a scheduled time
40 and place and whether he ~~is persistently or acutely disabled, gravely~~
41 ~~disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY, A GRAVE DISABILITY or likely
42 to present a danger to self or others until the voluntary evaluation.

43 B. After prepetition screening has been completed, the screening
44 agency shall prepare a report of opinions and conclusions. If prepetition
45 screening is not possible, the screening agency shall prepare a report giving

1 reasons why the screening was not possible and including opinions and
2 conclusions of staff members who attempted to conduct prepetition screening
3 or otherwise investigated the matter.

4 C. If the prepetition screening report indicates that there exists no
5 reasonable cause to believe the allegations of the applicant for the
6 court-ordered evaluation, it shall be reviewed by the medical director of the
7 screening agency or his designee.

8 D. If, based upon the allegations of the applicant for the
9 court-ordered evaluation and the prepetition screening report or other
10 information obtained while attempting to conduct a prepetition screening, the
11 agency determines that there is reasonable cause to believe that the proposed
12 patient is, as a result of mental disorder, a danger to self or to others, ~~is~~
13 ~~persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR
14 ACUTE DISABILITY OR A GRAVE DISABILITY and that the proposed patient is
15 unable or unwilling to voluntarily receive evaluation or is likely to present
16 a danger to self or to others, ~~is gravely disabled~~ HAS A GRAVE DISABILITY or
17 will further deteriorate before receiving a voluntary evaluation, it shall
18 prepare a petition for court-ordered evaluation and shall file the petition,
19 which shall be signed by the person who prepared the petition unless the
20 county attorney performs these functions. If the agency determines that
21 there is reasonable cause to believe that the person is in such a condition
22 that without immediate hospitalization he is likely to harm himself or
23 others, it shall take all reasonable steps to procure such hospitalization on
24 an emergency basis.

25 E. The agency may contact the county attorney in order to obtain his
26 assistance in preparing the petition for court-ordered evaluation, and the
27 agency may request the advice and judgment of the county attorney in reaching
28 a decision as to whether the court-ordered evaluation is justified.

29 F. The county attorney may prepare or sign or file the petition if a
30 court has ordered the county attorney to prepare the petition.

31 G. If a petition for court-ordered evaluation alleges danger to others
32 as described in section 36-501, the screening agency shall, prior to filing
33 such petition, contact the county attorney for a review of the petition. The
34 county attorney shall examine the petition and make one of the following
35 written recommendations:

- 36 1. That a criminal investigation is warranted.
- 37 2. That the screening agency shall file the petition.
- 38 3. That no further proceedings are warranted. The screening agency
39 shall consider such recommendation in determining whether a court-ordered
40 evaluation is justified and shall include such recommendation with the
41 petition if it decides to file the petition with the court.

42 H. The petition shall be made in the form and manner prescribed by the
43 deputy director.

1 Sec. 103. Section 36-523, Arizona Revised Statutes, is amended to
2 read:

3 36-523. Petition for evaluation

4 A. The petition for evaluation shall contain the following:

5 1. The name, address and interest in the case of the individual who
6 applied for the petition.

7 2. The name, and address if known, of the proposed patient for whom
8 evaluation is petitioned.

9 3. The present whereabouts of the proposed patient, if known.

10 4. A statement alleging that there is reasonable cause to believe that
11 the proposed patient has a mental disorder and is as a result a danger to
12 self or others, ~~is persistently or acutely disabled or is gravely disabled~~
13 HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and is unwilling
14 or unable to undergo voluntary evaluation.

15 5. A summary of the facts which support the allegations that the
16 proposed patient is dangerous, ~~is persistently or acutely disabled or is~~
17 ~~gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY
18 and IS unwilling or unable to be voluntarily evaluated including the facts
19 which brought the proposed patient to the screening agency's attention.

20 6. Other information that the deputy director, with the approval of
21 the director, by rule or the court by rule or order may require.

22 B. The petition shall request that the court issue an order requiring
23 that the proposed patient be given an evaluation and shall advise the court
24 of both of the following:

25 1. That the opinion of the petitioner is either that the proposed
26 patient is or is not in such a condition that without immediate or continuing
27 hospitalization he is likely to suffer serious physical harm or further
28 deterioration or inflict serious physical harm upon another person.

29 2. If the opinion of the petitioner is that the proposed patient is
30 not in the condition described in paragraph 1 of this subsection, that the
31 opinion of the petitioner is either that the evaluation should or should not
32 take place on an outpatient basis.

33 C. The petition for evaluation shall be accompanied by the application
34 for evaluation, by the recommendation of the county attorney pursuant to
35 section 36-521 and by a prepetition screening report, unless such documents
36 have not been prepared under a provision of law or in accordance with an
37 order of the court. The petition for evaluation shall also be accompanied by
38 a copy of the application for emergency admission if one exists.

39 D. A petition and other forms required in a court may be filed only by
40 the screening agency which has prepared the petition.

41 E. If the petition is not filed because it has been determined that
42 the person does not need an evaluation, the agency after a period of six
43 months shall destroy the petition and the various reports annexed to the
44 petition as required by this section.

1 Sec. 104. Section 36-529, Arizona Revised Statutes, is amended to
2 read:

3 36-529. Order for evaluation; order for detention; hearing

4 A. If, from the review of the petition for evaluation, the court does
5 not determine that the proposed patient is likely to present a danger to self
6 or others or further deteriorate prior to his hearing on court-ordered
7 treatment, but determines that there is reasonable cause to believe that the
8 proposed patient is, as a result of a mental disorder, a danger to self or
9 others, ~~is persistently or acutely disabled~~ HAS A PERSISTENT OR ACUTE
10 DISABILITY or ~~is gravely disabled~~ A GRAVE DISABILITY, the court shall issue
11 an order directing the proposed patient to submit to an evaluation at a
12 designated time and place, specifying that the evaluation will take place on
13 an inpatient or an outpatient basis. The court may also order that if the
14 person does not or cannot so submit, that he be taken into custody by a
15 police officer and delivered to an evaluation agency. If the court makes
16 such a conditional order, it shall also make a conditional appointment of
17 counsel for the person to become effective when and if the person is taken
18 into custody pursuant to this section.

19 B. If, from review of the petition for evaluation, there is reasonable
20 cause to believe that the proposed patient is, as a result of a mental
21 disorder, a danger to self or others, ~~is persistently or acutely disabled or~~
22 ~~is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE
23 DISABILITY and that the person requires immediate or continued
24 hospitalization prior to his hearing on court-ordered treatment, the court
25 shall order the proposed patient taken into custody and evaluated at an
26 evaluation agency. The court shall promptly appoint counsel for the proposed
27 patient. If an intercounty agreement authorizes the same, the court may
28 order that the evaluation be conducted in another county, and the superior
29 court in the county where the evaluation is conducted shall have concurrent
30 jurisdiction to make appropriate orders concerning the proposed patient.

31 C. If the person is not taken into custody or if the evaluation
32 pursuant to the order of the court under subsection A or B is not initiated
33 within fourteen days from the date of the order, the order and petition for
34 evaluation shall expire.

35 D. If the person is involuntarily hospitalized, the person shall be
36 informed by his appointed attorney of his rights to a hearing to determine
37 whether he should be involuntarily hospitalized for evaluation and to be
38 represented at the hearing by an attorney. If the patient requests a hearing
39 to determine whether he should be involuntarily hospitalized during
40 evaluation, the court shall schedule a hearing at its first opportunity.

41 Sec. 105. Section 36-531, Arizona Revised Statutes, is amended to
42 read:

43 36-531. Evaluation; possible dispositions; release

44 A. A person being evaluated on an inpatient basis in an evaluation
45 agency shall be released if, in the opinion of the medical director of the

1 agency, further evaluation is not appropriate unless the person makes
2 application for further care and treatment on a voluntary basis.

3 B. If it is determined upon an evaluation of the patient's condition
4 that he is, as a result of a mental disorder, a danger to self or to others,
5 ~~is persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT
6 OR ACUTE DISABILITY OR A GRAVE DISABILITY, the medical director in charge of
7 the agency which provided the evaluation shall, unless the person makes
8 application for further care and treatment on a voluntary basis, prepare,
9 sign and file a petition for court-ordered treatment unless the county
10 attorney performs the functions of preparing, signing or filing the petition
11 as provided in subsection C of this section.

12 C. The agency may contact the county attorney to obtain his assistance
13 in preparing the petition for court-ordered treatment, and the agency may
14 request the advice and judgment of the county attorney in reaching a decision
15 as to whether court-ordered treatment is justified.

16 D. A person being evaluated on an inpatient basis in an evaluation
17 agency shall be released within seventy-two hours, excluding weekends and
18 holidays, from the time that he is hospitalized pursuant to a court order for
19 evaluation, unless the person makes application for further care and
20 treatment on a voluntary basis or unless a petition for court-ordered
21 treatment has been filed pursuant to subsection B of this section.

22 E. The department of health services may conduct jointly with a school
23 district, directly or indirectly, an educational evaluation pursuant to
24 sections 15-765 and 15-766 for nonadjudicated youth. The evaluation
25 information may be shared by and among authorized personnel employed by the
26 department of health services and the department of education, or authorized
27 personnel from the local education agency, for purposes of ensuring the
28 provision of special education and related services as required by the
29 individuals with disabilities education act (20 United States Code sections
30 1400 through 1415).

31 Sec. 106. Section 36-533, Arizona Revised Statutes, is amended to
32 read:

33 36-533. Petition for treatment

34 A. The petition for court-ordered treatment shall allege:

35 1. That the patient is in need of a period of treatment because the
36 patient, as a result of mental disorder, is a danger to self or to others, ~~is~~
37 ~~persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR
38 ACUTE DISABILITY OR A GRAVE DISABILITY.

39 2. The treatment alternatives that are appropriate or available.

40 3. That the patient is unwilling to accept or incapable of accepting
41 treatment voluntarily.

42 B. The petition shall be accompanied by the affidavits of the two
43 physicians who participated in the evaluation and by the affidavit of the
44 applicant for the evaluation, if any. The affidavits of the physicians shall
45 describe in detail the behavior that indicates that the person, as a result

1 of mental disorder, is a danger to self or to others, ~~is persistently or~~
2 ~~acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY
3 OR A GRAVE DISABILITY and shall be based on the physician's observations of
4 the patient and the physician's study of information about the patient. A
5 summary of the facts that support the allegations of the petition shall be
6 included. The affidavit shall also include any of the results of the
7 physical examination of the patient if relevant to the patient's psychiatric
8 condition.

9 C. The petition shall request the court to issue an order requiring
10 the person to undergo a period of treatment.

11 D. In cases of grave disability the petition shall also include:

12 1. A statement that in the opinion of the petitioner the ~~gravely~~
13 ~~disabled~~ person WITH A GRAVE DISABILITY does or does not require guardianship
14 or conservatorship, or both, under title 14 and the reasons on which the
15 statement is based.

16 2. A request that the court order an independent investigation and
17 report for the court if in the opinion of the petitioner the person does
18 require guardianship or conservatorship, or both.

19 3. A statement that in the opinion of the petitioner the ~~gravely~~
20 ~~disabled~~ person WITH A GRAVE DISABILITY does or does not require temporary
21 guardianship or conservatorship, or both, and the reasons on which the
22 statement is based.

23 4. A request that the court appoint a temporary guardian or
24 conservator, or both, if in the opinion of the petitioner the person does
25 require temporary guardianship or conservatorship, or both.

26 E. A copy of the petition in cases of grave disability shall be mailed
27 to the public fiduciary in the county of the patient's residence or in which
28 the patient was found before evaluation and to any person nominated as
29 guardian or conservator.

30 F. A copy of all petitions shall be mailed to the superintendent of
31 the Arizona state hospital.

32 Sec. 107. Section 36-535, Arizona Revised Statutes, is amended to
33 read:

34 36-535. Detention of proposed patient; time of hearing;
35 released patient; intervention by division

36 A. If, on the filing of a petition for court-ordered treatment, the
37 patient is not then detained in an agency, the court shall order the
38 detention of the patient in the agency that conducted the evaluation if the
39 court determines that the patient is likely to present a danger to self or
40 others before the conclusion of the hearing or is not likely to appear at the
41 hearing on the petition if not detained. The court shall issue such orders
42 as are necessary to provide for the apprehension, transportation and
43 detention of the proposed patient. The court shall appoint counsel for the
44 proposed patient if one has not been previously appointed.

1 B. The court shall order the hearing to be held within six business
2 days after the petition is filed, except that, on good cause shown, the court
3 may continue the hearing at the request of either party. The hearing may be
4 continued for a maximum of thirty days at the request of the proposed
5 patient. The hearing may be continued for a maximum of three business days
6 at the request of the petitioner. If the hearing is continued at the request
7 of the petitioner and the proposed patient is involuntarily hospitalized, the
8 proposed patient may request a hearing to determine whether the proposed
9 patient should be involuntarily hospitalized during the continuation period.

10 C. If after reviewing the petition with its attached material and
11 other evidence at hand the court finds that the patient is not, as a result
12 of mental disorder, a danger to self or others, ~~persistently or acutely~~
13 ~~disabled or gravely disabled~~ A PATIENT WITH A PERSISTENT OR ACUTE DISABILITY
14 OR A GRAVE DISABILITY, the patient shall be released.

15 D. The division, acting on behalf of the state hospital, may intervene
16 as a party to the proceedings on any petition for court-ordered treatment and
17 may appear as a party at the hearing on the petition by filing a written
18 notice of intervention with the clerk of the superior court in the county in
19 which the petition was filed, at any time before either the original time set
20 for the hearing or the time to which the hearing is continued. The
21 intervenor at the hearing may cross-examine any witnesses presented by other
22 parties pursuant to section 36-539, may subpoena and present witnesses of its
23 own, including physicians, and may present other evidence. The intervenor,
24 on stipulation with all other parties or on order of the court, may cause
25 physicians to personally conduct mental status examinations of the proposed
26 patient and to testify as to their opinions concerning whether the proposed
27 patient is, as a result of mental disorder, a danger to self or to others, ~~is~~
28 ~~persistently or acutely disabled or is gravely disabled~~ HAS A PERSISTENT OR
29 ACUTE DISABILITY OR A GRAVE DISABILITY and as to whether the proposed patient
30 requires treatment. This subsection applies in addition to all rules of
31 evidence, the Arizona rules of civil procedure and section 36-539.

32 Sec. 108. Section 36-539, Arizona Revised Statutes, is amended to
33 read:

34 36-539. Conduct of hearing; record; transcript

35 A. The medical director of the agency shall issue instructions to the
36 physicians or the psychiatric and mental health nurse practitioner treating
37 the proposed patient to take all reasonable precautions to ensure that at the
38 time of the hearing the proposed patient shall not be so under the influence
39 of or so suffer the effects of drugs, medication or other treatment as to be
40 hampered in preparing for or participating in the hearing. The court at the
41 time of the hearing shall be presented a record of all drugs, medication or
42 other treatment that the person has received during the seventy-two hours
43 immediately before the hearing.

44 B. The patient and the patient's attorney shall be present at all
45 hearings, and the patient's attorney may subpoena and cross-examine witnesses

1 and present evidence. The patient may choose to not attend the hearing or
 2 the patient's attorney may waive the patient's presence. The evidence
 3 presented by the petitioner or the patient shall include the testimony of two
 4 or more witnesses acquainted with the patient at the time of the alleged
 5 mental disorder, which may be satisfied by a statement agreed on by the
 6 parties, and testimony of the two physicians who participated in the
 7 evaluation of the patient, which may be satisfied by stipulating to the
 8 admission of the evaluating physicians' affidavits as required pursuant to
 9 section 36-533, subsection B. The physicians shall testify as to their
 10 personal observations of the patient. They shall also testify as to their
 11 opinions concerning whether the patient is, as a result of mental disorder, a
 12 danger to self or to others, ~~is persistently or acutely disabled or is~~
 13 ~~gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY
 14 and as to whether the patient requires treatment. Such testimony shall state
 15 specifically the nature and extent of the danger to self or to others, the
 16 persistent or acute disability or the grave disability. If the patient ~~is~~
 17 ~~gravely disabled~~ HAS A GRAVE DISABILITY, the physicians shall testify
 18 concerning the need for guardianship or conservatorship, or both, and whether
 19 or not the need is for immediate appointment. Other persons who have
 20 participated in the evaluation of the patient or, if further treatment was
 21 requested by a mental health treatment agency, persons of that agency who are
 22 directly involved in the care of the patient shall testify at the request of
 23 the court or of the patient's attorney. Witnesses shall testify as to
 24 placement alternatives appropriate and available for the care and treatment
 25 of the patient. The clinical record of the patient for the current admission
 26 shall be available and may be presented in full or in part as evidence at the
 27 request of the court, the county attorney or the patient's attorney.

28 C. If the patient, for medical reasons, is unable to be present at the
 29 hearing and the hearing cannot be conducted where the patient is being
 30 treated or confined, the court shall require clear and convincing evidence
 31 that the patient is unable to be present at the hearing and on such a finding
 32 may proceed with the hearing in the patient's absence.

33 D. The requirements of subsection B of this section are in addition to
 34 all rules of evidence and the Arizona rules of civil procedure, not
 35 inconsistent with subsection B of this section.

36 E. A verbatim record of all proceedings under this section shall be
 37 made by stenographic means by a court reporter if a written request for a
 38 court reporter is made by any party to the proceedings at least twenty-four
 39 hours in advance of such proceedings. If stenographic means are not
 40 requested in the manner provided by this subsection, electronic means shall
 41 be directed by the presiding judge. The stenographic notes or electronic
 42 tape shall be retained as provided by statute.

43 F. A patient who has been ordered to undergo treatment may request a
 44 certified transcript of the hearing. To obtain a copy, the patient shall pay
 45 for a transcript or shall file an affidavit that the patient is without means

1 to pay for a transcript. If the affidavit is found true by the court, the
2 expense of the transcript is a charge on the county in which the proceedings
3 were held, or, if an intergovernmental agreement by the counties has required
4 evaluation in a county other than that of the patient's residence, such
5 expense may be charged to the county of the patient's residence or in which
6 the patient was found before evaluation.

7 Sec. 109. Section 36-540, Arizona Revised Statutes, is amended to
8 read:

9 36-540. Court options

10 A. If the court finds by clear and convincing evidence that the
11 proposed patient, as a result of mental disorder, is a danger to self, is a
12 danger to others, ~~is persistently or acutely disabled or is gravely disabled~~
13 HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY and in need of
14 treatment, and is either unwilling or unable to accept voluntary treatment,
15 the court shall order the patient to undergo one of the following:

16 1. Treatment in a program of outpatient treatment.

17 2. Treatment in a program consisting of combined inpatient and
18 outpatient treatment.

19 3. Inpatient treatment in a mental health treatment agency, in a
20 hospital operated by or under contract with the United States department of
21 veterans affairs to provide treatment to eligible veterans pursuant to
22 article 9 of this chapter, in the state hospital or in a private hospital, if
23 the private hospital agrees, subject to the limitations of section 36-541.

24 B. The court shall consider all available and appropriate alternatives
25 for the treatment and care of the patient. The court shall order the least
26 restrictive treatment alternative available.

27 C. The court may order the proposed patient to undergo outpatient or
28 combined inpatient and outpatient treatment pursuant to subsection A,
29 paragraph 1 or 2 of this section if the court:

30 1. Determines that all of the following apply:

31 (a) The patient does not require continuous inpatient hospitalization.

32 (b) The patient will be more appropriately treated in an outpatient
33 treatment program or in a combined inpatient and outpatient treatment
34 program.

35 (c) The patient will follow a prescribed outpatient treatment plan.

36 (d) The patient will not likely become dangerous or suffer more
37 serious physical harm or serious illness or further deterioration if the
38 patient follows a prescribed outpatient treatment plan.

39 2. Is presented with and approves a written treatment plan that
40 conforms with the requirements of section 36-540.01, subsection B. If the
41 treatment plan presented to the court pursuant to this subsection provides
42 for supervision of the patient under court order by a mental health agency
43 that is other than the mental health agency that petitioned or requested the
44 county attorney to petition the court for treatment pursuant to section
45 36-531, the treatment plan must be approved by the medical director of the

1 mental health agency that will supervise the treatment pursuant to subsection
2 E of this section.

3 D. An order to receive treatment pursuant to subsection A, paragraph 1
4 or 2 of this section shall not exceed three hundred sixty-five days. The
5 period of inpatient treatment under a combined treatment order pursuant to
6 subsection A, paragraph 2 of this section shall not exceed the maximum period
7 allowed for an order for inpatient treatment pursuant to subsection F of this
8 section.

9 E. If the court enters an order for treatment pursuant to subsection
10 A, paragraph 1 or 2 of this section, all of the following apply:

11 1. The court shall designate the medical director of the mental health
12 treatment agency that will supervise and administer the patient's treatment
13 program.

14 2. The medical director shall not use the services of any person,
15 agency or organization to supervise a patient's outpatient treatment program
16 unless the person, agency or organization has agreed to provide these
17 services in the individual patient's case and unless the department has
18 determined that the person, agency or organization is capable and competent
19 to do so.

20 3. The person, agency or organization assigned to supervise an
21 outpatient treatment program or the outpatient portion of a combined
22 treatment program shall be notified at least three days before a referral.
23 The medical director making the referral and the person, agency or
24 organization assigned to supervise the treatment program shall share relevant
25 information about the patient to provide continuity of treatment.

26 4. During any period of outpatient treatment under subsection A,
27 paragraph 2 of this section, if the court, on motion by the medical director
28 of the patient's outpatient mental health treatment facility, determines that
29 the patient is not complying with the terms of the order or that the
30 outpatient treatment plan is no longer appropriate and the patient needs
31 inpatient treatment, the court, without a hearing and based on the court
32 record, the patient's medical record, the affidavits and recommendations of
33 the medical director, and the advice of staff and physicians or the
34 psychiatric and mental health nurse practitioner familiar with the treatment
35 of the patient, may enter an order amending its original order. The amended
36 order may alter the outpatient treatment plan or order the patient to
37 inpatient treatment pursuant to subsection A, paragraph 3 of this section.
38 The amended order shall not increase the total period of commitment
39 originally ordered by the court or, when added to the period of inpatient
40 treatment provided by the original order and any other amended orders, exceed
41 the maximum period allowed for an order for inpatient treatment pursuant to
42 subsection F of this section. If the patient refuses to comply with an
43 amended order for inpatient treatment, the court may authorize and direct a
44 peace officer, on the request of the medical director, to take the patient
45 into protective custody and transport the patient to the agency for inpatient

1 treatment. When reporting to or being returned to a treatment agency for
2 inpatient treatment pursuant to an amended order, the patient shall be
3 informed of the patient's right to judicial review and the patient's right to
4 consult with counsel pursuant to section 36-546.

5 5. During any period of outpatient treatment under subsection A,
6 paragraph 2 of this section, if the medical director of the outpatient
7 treatment facility in charge of the patient's care determines, in concert
8 with the medical director of an inpatient mental health treatment facility
9 who has agreed to accept the patient, that the patient is in need of
10 immediate acute inpatient psychiatric care because of behavior that is
11 dangerous to self or to others, the medical director of the outpatient
12 treatment facility may order a peace officer to apprehend and transport the
13 patient to the inpatient treatment facility pending a court determination on
14 an amended order under paragraph 4 of this subsection. The patient may be
15 detained and treated at the inpatient treatment facility for a period of no
16 more than forty-eight hours, exclusive of weekends and holidays, from the
17 time that the patient is taken to the inpatient treatment facility. The
18 medical director of the outpatient treatment facility shall file the motion
19 for an amended court order requesting inpatient treatment no later than the
20 next working day following the patient being taken to the inpatient treatment
21 facility. Any period of detention within the inpatient treatment facility
22 pending issuance of an amended order shall not increase the total period of
23 commitment originally ordered by the court or, when added to the period of
24 inpatient treatment provided by the original order and any other amended
25 orders, exceed the maximum period allowed for an order for inpatient
26 treatment pursuant to subsection F of this section. If a patient is ordered
27 to undergo inpatient treatment pursuant to an amended order, the medical
28 director of the outpatient treatment facility shall inform the patient of the
29 patient's right to judicial review and to consult with an attorney pursuant
30 to section 36-546.

31 F. The maximum periods of inpatient treatment that the court may
32 order, subject to the limitations of section 36-541, are as follows:

- 33 1. Ninety days for a person found to be a danger to self.
- 34 2. One hundred eighty days for a person found to be a danger to
35 others.
- 36 3. One hundred eighty days for a person found to ~~be persistently or~~
37 ~~acutely disabled~~ HAVE A PERSISTENT OR ACUTE DISABILITY.
- 38 4. Three hundred sixty-five days for a person found to ~~be gravely~~
39 ~~disabled~~ HAVE A GRAVE DISABILITY.

40 G. If, on finding that the patient meets the criteria for
41 court-ordered treatment pursuant to subsection A of this section, the court
42 also finds that there is reasonable cause to believe that the patient is an
43 incapacitated person as defined in section 14-5101 or is a person in need of
44 protection pursuant to section 14-5401 and that the patient is or may be in
45 need of guardianship or conservatorship, or both, the court may order an

1 investigation concerning the need for a guardian or conservator, or both, and
2 may appoint a suitable person or agency to conduct the investigation. The
3 appointee may include a court appointed guardian ad litem, an investigator
4 appointed pursuant to section 14-5308 or the public fiduciary if there is no
5 person willing and qualified to act in that capacity. The court shall give
6 notice of the appointment to the appointee within three days of the
7 appointment. The appointee shall submit the report of the investigation to
8 the court within twenty-one days. The report shall include recommendations
9 as to who should be guardian or who should be conservator, or both, and a
10 report of the findings and reasons for the recommendation. If the
11 investigation and report so indicate, the court shall order the appropriate
12 person to submit a petition to become the guardian or conservator, or both,
13 of the patient.

14 H. In any proceeding for court-ordered treatment in which the petition
15 alleges that the patient is in need of a guardian or conservator and states
16 the grounds for that allegation, the court may appoint an emergency temporary
17 guardian or conservator, or both, for a specific purpose or purposes
18 identified in its order and for a specific period of time not to exceed
19 thirty days if the court finds that all of the following are true:

20 1. The patient meets the criteria for court-ordered treatment pursuant
21 to subsection A of this section.

22 2. There is reasonable cause to believe that the patient is an
23 incapacitated person as defined in section 14-5101 or is in need of
24 protection pursuant to section 14-5401, paragraph 2.

25 3. The patient does not have a guardian or conservator and the welfare
26 of the patient requires immediate action to protect the patient or the ward's
27 property.

28 4. The conditions prescribed pursuant to section 14-5310, subsection B
29 or section 14-5401.01, subsection B have been met.

30 I. The court may appoint as a temporary guardian or conservator
31 pursuant to subsection H of this section a suitable person or the public
32 fiduciary if there is no person qualified and willing to act in that
33 capacity. The court shall issue an order for an investigation as prescribed
34 pursuant to subsection G of this section and, unless the patient is
35 represented by independent counsel, the court shall appoint an attorney to
36 represent the patient in further proceedings regarding the appointment of a
37 guardian or conservator. The court shall schedule a further hearing within
38 fourteen days on the appropriate court calendar of a court that has authority
39 over guardianship or conservatorship matters pursuant to this title to
40 consider the continued need for an emergency temporary guardian or
41 conservator and the appropriateness of the temporary guardian or conservator
42 appointed, and shall order the appointed guardian or conservator to give
43 notice to persons entitled to notice pursuant to section 14-5309, subsection
44 A or section 14-5405, subsection A. The court shall authorize certified
45 letters of temporary emergency guardianship or conservatorship to be issued

1 on presentation of a copy of the court's order. If a temporary emergency
2 conservator other than the public fiduciary is appointed pursuant to this
3 subsection, the court shall order that the use of the money and property of
4 the patient by the conservator is restricted and not to be sold, used,
5 transferred or encumbered, except that the court may authorize the
6 conservator to use money or property of the patient specifically identified
7 as needed to pay an expense to provide for the care, treatment or welfare of
8 the patient pending further hearing. This subsection and subsection H of
9 this section do not:

10 1. Prevent the evaluation or treatment agency from seeking
11 guardianship and conservatorship in any other manner allowed by law at any
12 time during the period of court-ordered evaluation and treatment.

13 2. Relieve the evaluation or treatment agency from its obligations
14 concerning the suspected abuse of a vulnerable adult pursuant to title 46,
15 chapter 4.

16 J. If, on finding that a patient meets the criteria for court-ordered
17 treatment pursuant to subsection A of this section, the court also learns
18 that the patient has a guardian appointed under title 14, the court with
19 notice may impose on the existing guardian additional duties pursuant to
20 section 14-5312.01. If the court imposes additional duties on an existing
21 guardian as prescribed in this subsection, the court may determine that the
22 patient needs to continue treatment under a court order for treatment and may
23 issue the order or determine that the patient's needs can be adequately met
24 by the guardian with the additional duties pursuant to section 14-5312.01 and
25 decline to issue the court order for treatment. If at any time after the
26 issuance of a court order for treatment the court finds that the patient's
27 needs can be adequately met by the guardian with the additional duties
28 pursuant to section 14-5312.01 and that a court order for treatment is no
29 longer necessary to assure compliance with necessary treatment, the court may
30 terminate the court order for treatment. If there is a court order for
31 treatment and a guardianship with additional mental health authority pursuant
32 to section 14-5312.01 existing at the same time, the treatment and placement
33 decisions made by the treatment agency assigned by the court to supervise and
34 administer the patient's treatment program pursuant to the court order for
35 treatment are controlling unless the court orders otherwise.

36 K. The court shall file a report as part of the court record on its
37 findings of alternatives for treatment.

38 L. Treatment shall not include psychosurgery, lobotomy or any other
39 brain surgery without specific informed consent of the patient or the
40 patient's legal guardian and an order of the superior court in the county in
41 which the treatment is proposed, approving with specificity the use of the
42 treatment.

43 M. The medical director or any person, agency or organization used by
44 the medical director to supervise the terms of an outpatient treatment plan
45 shall not be held civilly liable for any acts committed by a patient while on

1 outpatient treatment if the medical director, person, agency or organization
2 has in good faith followed the requirements of this section.

3 N. A peace officer who in good faith apprehends and transports a
4 patient to an inpatient treatment facility on the order of the medical
5 director of the outpatient treatment facility pursuant to subsection E,
6 paragraph 5 of this section is not subject to civil liability.

7 O. If a person has been found, as a result of a mental disorder, to
8 constitute a danger to self or others or ~~to be persistently or acutely~~
9 ~~disabled or gravely disabled~~ **TO HAVE A PERSISTENT OR ACUTE DISABILITY OR A**
10 **GRAVE DISABILITY** and the court enters an order for treatment pursuant to
11 subsection A of this section, the court shall grant access to the person's
12 name, date of birth, social security number and date of commitment to the
13 department of public safety to comply with the requirements of title 13,
14 chapter 31 and title 32, chapter 26.

15 Sec. 110. Section 36-540.01, Arizona Revised Statutes, is amended to
16 read:

17 **36-540.01. Conditional outpatient treatment**

18 A. The medical director may issue an order for conditional outpatient
19 treatment for a patient ordered to undergo treatment pursuant to section
20 36-540 if, after consultation with staff familiar with the patient's case
21 history, the medical director determines with a reasonable degree of medical
22 probability that all of the following apply:

23 1. The patient no longer requires continuous inpatient
24 hospitalization.

25 2. The patient will be more appropriately treated in an outpatient
26 treatment program.

27 3. The patient will follow a prescribed outpatient treatment plan.

28 4. The patient will not likely become dangerous, suffer more serious
29 physical harm or serious illness or further deteriorate if the patient
30 follows a prescribed outpatient treatment plan.

31 B. The order for conditional outpatient treatment issued by the
32 medical director shall include a written outpatient treatment plan prepared
33 by staff familiar with the patient's case history and approved by the medical
34 director. The plan shall include all of the following:

35 1. A statement of the patient's requirements, if any, for supervision,
36 medication and assistance in obtaining basic needs such as employment, food,
37 clothing or shelter.

38 2. The address of the residence where the patient is to live and the
39 name of the person in charge of the residence, if any.

40 3. The name and address of any person, agency or organization assigned
41 to supervise an outpatient treatment plan or care for the patient, and the
42 extent of authority of the person, agency or organization in carrying out the
43 terms of the plan.

44 4. The conditions for continued outpatient treatment, which may
45 require periodic reporting, continuation of medication and submission to

1 testing, and may restrict travel, consumption of spirituous liquor and drugs,
2 associations with others and incurrence of debts and obligations or such
3 other reasonable conditions as the medical director may specify.

4 C. Before release for conditional outpatient treatment, the patient
5 shall be provided with copies and full explanations of the medical director's
6 order and the treatment plan. If, after full explanation, the patient
7 objects to the plan or any part of it, the objection and reasons for the
8 objection shall be noted in the patient's record. The medical director's
9 order and treatment plan shall be filed in the patient's medical file and
10 shall also be filed with the court.

11 D. The period for which conditional outpatient treatment may be
12 ordered may not exceed the remainder of the period of court ordered
13 treatment.

14 E. Before the release of a patient for outpatient treatment, the
15 medical director shall give notice pursuant to section 36-541.01, subsection
16 B and a motion for a determination by the court as to whether the standard
17 for conditional release of the patient has been met may be made by the
18 persons and in the manner provided for in section 36-541.01, subsection
19 H. Before the release of a person found to be a danger to self, to be
20 ~~persistently or acutely disabled or to be gravely disabled~~ A PERSON WITH A
21 PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY for outpatient
22 treatment, the medical director shall give notice to the court that ordered
23 the patient to undergo treatment. If criminal charges against a patient
24 involving death or serious physical injury or a violation of title 13,
25 chapter 14 are dismissed pursuant to section 13-4517, the medical director
26 shall notify the prosecuting agency if a civil commitment order issued
27 pursuant to this chapter expires or is terminated, or if the patient is
28 discharged to outpatient treatment. The medical director shall provide this
29 notice by mail at least five days before the anticipated date of the
30 expiration, termination or discharge.

31 F. The medical director shall require periodic reports concerning the
32 condition of patients on conditional outpatient treatment from any person,
33 agency or organization assigned to supervise an outpatient treatment plan.
34 The medical director shall require these reports at intervals not to exceed
35 thirty days.

36 G. The medical director shall review the condition of a patient on
37 conditional outpatient treatment at least once every thirty days and enter
38 the findings in writing in the patient's file. In conducting the review, the
39 medical director shall consider all reports and information received and may
40 require the patient to report for further evaluation.

41 H. The medical director may amend any part of the outpatient treatment
42 plan during the course of conditional outpatient treatment. If the plan is
43 amended, the medical director shall issue a new order including the amended
44 outpatient treatment plan. The new order and amended outpatient treatment
45 plan shall be filed in the patient's medical file. Copies of the new order

1 and outpatient treatment plan shall be immediately provided to the patient
2 and to any person, agency or organization assigned to supervise an outpatient
3 treatment plan. Copies of the new order and outpatient treatment plan shall
4 be immediately filed with the court.

5 I. The medical director may rescind an order for conditional
6 outpatient treatment and order the patient to return to a mental health
7 treatment agency at any time during the period of court ordered treatment if,
8 in the medical director's judgment, the patient has failed to comply with a
9 term of the outpatient treatment plan or if, for any reason, the medical
10 director determines that the patient needs inpatient treatment or that
11 conditional outpatient treatment is no longer appropriate.

12 J. If the medical director rescinds an order for conditional
13 outpatient treatment and the patient is returned to a mental health treatment
14 agency for inpatient treatment, the patient shall be informed of the
15 patient's right to judicial review and right to consult with counsel pursuant
16 to section 36-546.

17 K. If the medical director rescinds an order for conditional
18 outpatient treatment and orders the patient to return to a mental health
19 treatment agency, the medical director may request a peace officer or a
20 designated officer or employee of the treatment agency to take the patient
21 into custody for immediate delivery to the agency pursuant to section 36-544.

22 L. The medical director is not civilly liable for any act committed by
23 a patient while on conditional outpatient treatment if the medical director
24 has in good faith followed the requirements of this section.

25 M. This section does not prevent the medical director from authorizing
26 a patient ordered to undergo treatment pursuant to section 36-540 as a danger
27 to self, a danger to others, ~~persistently or acutely disabled or gravely~~
28 ~~disabled~~ A PATIENT WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE
29 DISABILITY to leave the treatment agency for periods of no more than five
30 days under the care, custody and control of a spouse, relative or other
31 responsible person if the medical director determines that the patient will
32 not become dangerous or suffer serious physical harm or illness during that
33 time.

34 N. The medical director may authorize a patient who is civilly
35 committed pursuant to section 36-540 to leave the state hospital grounds
36 unaccompanied if the leave is part of an inpatient individualized treatment
37 and discharge plan and the medical director determines that the patient will
38 not become dangerous or suffer serious physical harm or illness during that
39 time.

1 Sec. 111. Section 36-540.02, Arizona Revised Statutes, is amended to
2 read:

3 36-540.02. Transfer of a person with a grave disability without
4 a guardian from a mental health treatment agency
5 to another health care facility

6 A. A person who does not have a guardian under the provisions of
7 section 14-5312.01 and who has been found by the court to be ~~gravely disabled~~
8 **A PERSON WITH A GRAVE DISABILITY** and ordered to undergo treatment pursuant to
9 this article may receive care in another health care institution licensed by
10 the department during the course of the person's court-ordered treatment in
11 accordance with department rules.

12 B. The deputy director, with the approval of the director, shall adopt
13 rules pertaining to persons described in subsection A of this section to
14 provide for their alternative care in another health care institution
15 licensed by the department during the course of court-ordered treatment. The
16 rules shall allow transfer of patients from a mental health treatment agency
17 to another health care institution, transfer from one such institution to
18 another and return to a mental health treatment agency.

19 Sec. 112. Section 36-541, Arizona Revised Statutes, is amended to
20 read:

21 36-541. Mandatory local treatment

22 A. A patient who is ordered by a court to undergo treatment, if not
23 hospitalized in the state hospital at the time of the order, shall undergo
24 treatment for at least twenty-five days in a local mental health treatment
25 agency geographically convenient for the patient before being hospitalized in
26 the state hospital. This section shall not apply if the court finds, at a
27 hearing on court-ordered treatment, that the patient's present condition and
28 history demonstrate that the patient will not benefit from the required
29 period of treatment in a local mental health treatment agency or that the
30 state hospital provides a program which is specific to the needs of the
31 patient and is unavailable in the local mental health treatment agency, or
32 when there is no local mental health treatment agency readily available to
33 the patient. Such a finding shall be based at least upon the annual written
34 description by the state hospital of programs and services available and
35 appropriate written reports from the medical director of the local mental
36 health treatment agency. The patient may be immediately hospitalized at the
37 state hospital whenever the court determines that this section does not
38 apply.

39 B. A patient who is ordered by a court to undergo treatment based on a
40 determination that he ~~is persistently or acutely disabled~~ **HAS A PERSISTENT OR**
41 **ACUTE DISABILITY** shall be treated for at least twenty-five days solely in or
42 by a local mental health treatment agency geographically convenient for the
43 patient unless he is accepted by the superintendent of the state hospital for
44 treatment at the state hospital.

1 Sec. 113. Section 36-541.01, Arizona Revised Statutes, is amended to
2 read:

3 36-541.01. Release or discharge from treatment before
4 expiration of period ordered by court;
5 notification of intent to release or discharge;
6 hearing

7 A. A patient ordered to undergo treatment pursuant to this article may
8 be released from treatment before the expiration of the period ordered by the
9 court if, in the opinion of the medical director of the mental health
10 treatment agency, the patient no longer is, as a result of a mental disorder,
11 a danger to others, a danger to self, ~~persistently or acutely disabled or~~
12 ~~gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY.
13 A person ordered to undergo treatment as a danger to others may not be
14 released or discharged from treatment before the expiration of the period for
15 treatment ordered by the court unless the medical director first gives notice
16 of intention to do so as provided by this section.

17 B. Before the release or discharge of a patient ordered to undergo
18 treatment, the medical director of the mental health treatment agency shall
19 notify the following of the medical director's intention to release or
20 discharge the patient:

21 1. The presiding judge of the court that entered the order for
22 treatment.

23 2. Any relative or victim of the patient who has filed a demand for
24 notice with the treatment agency.

25 3. Any person found by the court to have a legitimate reason for
26 receiving notice.

27 C. If criminal charges against a patient involving death or serious
28 physical injury or a violation of title 13, chapter 14 are dismissed pursuant
29 to section 13-4517, the medical director shall notify the prosecuting agency
30 if a civil commitment order issued pursuant to this chapter expires or is
31 terminated, or if the patient is discharged to outpatient treatment. The
32 medical director shall provide this notice by mail at least five days before
33 the anticipated date of the expiration, termination or discharge.

34 D. If the director of the mental health treatment agency is unable to
35 determine, based on the information submitted pursuant to subsection E, that
36 a person who has filed a demand for notice is a victim the director shall
37 inform that person that that person's demand for notice is denied and that
38 notice will not be given unless ordered by the court pursuant to
39 subsection F.

40 E. A demand for notice by a relative or victim, and a petition for
41 notice by other persons, shall be on a form prescribed by the department and
42 shall include the following information:

43 1. The full name of the person to receive notice.

44 2. The address to which notice is to be mailed.

45 3. The telephone number of the person to receive notice.

1 4. The relationship to the patient, if any, or the reasons why the
2 person believes the person has a legitimate reason to receive notice.

3 5. A statement that the person will advise the treatment agency in
4 writing by certified mail, return receipt requested, of any change in the
5 address to which notice is to be mailed.

6 6. The full name of the patient ordered to undergo treatment as a
7 danger to others.

8 7. The mental health number assigned to the case by the superior
9 court.

10 F. If the court receives a demand for notice by a relative or victim,
11 the court shall order the medical director of the mental health treatment
12 agency not to release or discharge the patient before the expiration of the
13 period of court-ordered treatment without first giving notice to the relative
14 or victim as provided in subsection G. After considering a petition for
15 notice, if the court finds that the petitioner has a legitimate reason for
16 receiving prior notice, the court may order the medical director of the
17 mental health treatment agency not to release or discharge the patient from
18 inpatient treatment before the expiration of the period of court-ordered
19 treatment without first giving notice to the petitioner as provided in
20 subsection G. Any order for notice shall be delivered to the mental health
21 treatment agency and shall be filed with the patient's clinical record. If
22 the patient is transferred to another agency or institution, any orders for
23 notice shall be transferred with the patient.

24 G. A notice of intention to release or discharge shall include the
25 following information:

26 1. The name of the patient to be released or discharged.

27 2. The type of release or discharge.

28 3. The date of anticipated release or discharge. Notices shall be
29 placed in the mail, postage prepaid and addressed to the court and to each
30 person for whom notice has been ordered, at least ten days before the date of
31 intended release or discharge except notice shall be sent to the prosecuting
32 agency at least five days before the date of intended release or discharge.
33 For purposes of computing the notice requirement, the day of mailing shall
34 not be counted.

35 H. Any person for whom prior notice is required pursuant to this
36 section, or the court, may make a motion within the notification period that
37 requires the court to determine whether the standard for release of the
38 patient before the expiration of the period for court-ordered treatment has
39 been met. A determination that the standard for release has been met may be
40 made by the court based on a review of the record and any affidavits
41 submitted without further hearing. For good cause, the court may order an
42 evidentiary hearing. Whether or not a hearing is held, the court shall make
43 a determination at the earliest possible time but no longer than three weeks
44 after the anticipated date of release pursuant to subsection G, and the
45 patient shall be retained for the additional time required for the court's

1 determination. In making its determination the court may order an
2 independent examination of the patient. If a motion is not made, the patient
3 may be released in accordance with the terms set forth in the notice without
4 further court order.

5 I. If a motion has not been made pursuant to subsection H, the patient
6 may be released or discharged and the medical director of the mental health
7 treatment agency shall send to the court a certificate that the patient is no
8 longer a danger to others, a danger to self, ~~persistently or acutely disabled~~
9 ~~or gravely disabled~~ HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE
10 DISABILITY as the result of a mental disorder and therefore is released
11 before the expiration of the period ordered for treatment. The court shall
12 enter an order terminating the patient's court-ordered treatment.

13 J. The medical director of the mental health treatment agency shall
14 not be held civilly liable for any acts committed by a patient released
15 before the expiration of the period of court-ordered treatment if the medical
16 director has in good faith followed the requirements of this section.

17 Sec. 114. Section 36-543, Arizona Revised Statutes, is amended to
18 read:

19 36-543. Release from treatment of a patient with a grave
20 disability or a patient with a persistent or acute
21 disability; annual review; court order for continued
22 treatment

23 A. A patient found to ~~be gravely disabled or persistently or acutely~~
24 ~~disabled~~ HAVE A GRAVE DISABILITY OR A PERSISTENT OR ACUTE DISABILITY and
25 ordered to undergo treatment may be released from inpatient treatment when,
26 in the opinion of the medical director of the mental health treatment agency,
27 the level of care offered by the agency is no longer required. The patient
28 may agree to continue treatment voluntarily. If the patient is to be
29 released, the medical director shall arrange for an appropriate alternative
30 placement.

31 B. If a patient to be released from inpatient treatment is under
32 guardianship, the medical director of the mental health treatment agency
33 shall notify the guardian and any relevant regional behavioral health
34 authority ten days before the intended release date that the ward no longer
35 requires the level of care offered by the agency. The guardian and, if
36 relevant, the regional behavioral health authority shall arrange alternative
37 placement with the advice and recommendations of the medical director of the
38 mental health treatment agency.

39 C. The medical director of the mental health treatment agency is not
40 civilly liable for any acts committed by the released patient if the medical
41 director has in good faith complied with the requirements of this article.

42 D. Within ninety days before the expiration of a court order for
43 treatment, the medical director of the mental health treatment agency shall
44 conduct an annual review of a patient who has been found to ~~be gravely~~
45 ~~disabled or persistently or acutely disabled~~ HAVE A GRAVE DISABILITY OR A

1 **PERSISTENT OR ACUTE DISABILITY** and is undergoing court-ordered treatment to
2 determine whether the continuation of court-ordered treatment is appropriate
3 and to assess the needs of the patient for guardianship or conservatorship,
4 or both. The annual review shall consist of the mental health treatment and
5 clinical records contained in the patient's treatment file. The mental
6 health treatment agency shall keep a record of the annual review. If the
7 medical director believes that a continuation of court-ordered treatment is
8 appropriate, the medical director of the mental health treatment agency shall
9 appoint one or more psychiatrists to carry out a psychiatric examination of
10 the patient. In any proceeding conducted pursuant to this section, a patient
11 has the right to have an analysis of the patient's mental condition by an
12 independent evaluation pursuant to section 36-538.

13 E. Each examiner participating in the psychiatric examination of the
14 patient shall submit a report to the medical director of the mental health
15 treatment agency that includes the following:

16 1. The examiner's opinions as to whether the patient continues to ~~be~~
17 ~~gravely disabled or persistently or acutely disabled~~ **HAVE A GRAVE DISABILITY**
18 **OR A PERSISTENT OR ACUTE DISABILITY** as the result of a mental disorder and in
19 need of continued court-ordered treatment. In evaluating the patient's need
20 for continued court-ordered treatment, the examiner must consider, along with
21 all other evidence, the patient's history before and during the current
22 period of court-ordered treatment, the patient's compliance with recommended
23 treatment and any other evidence relevant to the patient's ability and
24 willingness to follow recommended treatment with or without a court order.

25 2. A statement as to whether suitable alternatives to court-ordered
26 treatment are available.

27 3. A statement as to whether voluntary treatment would be appropriate.

28 4. A review of the patient's status as to guardianship or
29 conservatorship, or both, the adequacy of existing protections of the patient
30 and the continued need for guardianship or conservatorship, or both. If the
31 examiner concludes that the patient's needs in these areas are not being
32 adequately met, the examiner's report shall recommend that the court order an
33 investigation into the patient's needs.

34 5. If the patient has an existing guardian who does not have the
35 mental health powers authorized pursuant to section 14-5312.01, a
36 recommendation as to whether the additional mental health powers authorized
37 by section 14-5312.01 should be imposed on the existing guardian and whether
38 the patient's needs can be adequately addressed by a guardian with mental
39 health powers without the need for a court order for treatment or whether the
40 court order for treatment should continue regardless of the additional mental
41 health powers imposed on the guardian.

42 6. The results of any physical examination conducted during the period
43 of court-ordered treatment if relevant to the psychiatric condition of the
44 patient.

1 F. After conducting the annual review as prescribed in this section,
2 if the medical director believes that continued court-ordered treatment is
3 necessary or appropriate, not later than thirty days before the expiration of
4 the court order for treatment, the medical director shall file with the court
5 an application for continued court-ordered treatment alleging the basis for
6 the application and shall file simultaneously with the application any
7 psychiatric examination conducted as part of the annual review. If the
8 patient is under guardianship, the medical director shall mail a copy of the
9 application to the patient's guardian.

10 G. If an application for continued court-ordered treatment is filed,
11 all of the following apply:

12 1. If the patient does not have an attorney, the court shall appoint
13 an attorney to represent the patient.

14 2. Within ten days after appointment, an attorney appointed pursuant
15 to this subsection, to the extent possible, shall fulfill the duties imposed
16 pursuant to section 36-537, review the medical director's report and the
17 patient's medical records, interview any physician who prepared a report on
18 the annual review and file a response requesting a hearing or submitting the
19 matter to the court for a ruling based on the record without a hearing.

20 3. If a hearing is not requested, the court shall rule on the
21 application or set the matter for hearing. If a hearing is requested, the
22 hearing shall be held within three weeks after the request for hearing is
23 filed. The hearing may be continued for good cause on motion of a party or
24 on the court's own motion, and the expiration of the current court order for
25 treatment may be extended until a ruling by the court on an application filed
26 pursuant to this subsection.

27 4. The patient's attorney must be present at all hearings and may
28 subpoena and cross-examine witnesses and present evidence. The patient has
29 the right to attend all hearings, but may choose not to attend a hearing.
30 The patient's attorney may waive the patient's presence after speaking with
31 the patient and confirming that the patient understands the right to be
32 present and does not desire to attend. If the patient is unable to be
33 present at the hearing for medical or psychiatric reasons and the hearing
34 cannot be conducted where the patient is being treated or confined, or the
35 patient cannot appear by another reasonably feasible means, the court shall
36 require clear and convincing evidence that the patient is unable to be
37 present at the hearing and on such a finding may proceed with the hearing in
38 the patient's absence.

39 5. The evidence presented by the applicant includes the testimony of
40 one or more witnesses acquainted with the patient during the period of
41 court-ordered treatment, which may be satisfied by a statement agreed on by
42 the parties, and the testimony of any physician who performed an annual
43 review of the patient, which may be satisfied by stipulating to the admission
44 of the examining physicians' written report prepared pursuant subsection E of
45 this section. The court may waive the need for the applicant to present the

1 testimony of witnesses acquainted with the patient as required by this
2 subsection, if it finds that the need for a continued court order for
3 treatment has been established by clear and convincing evidence from the
4 other testimony and evidence presented at the hearing.

5 6. At a hearing held pursuant to this subsection, the court, with
6 notice, may impose on an existing guardian additional powers pursuant to
7 section 14-5312.01. If the court finds that the patient's needs can be
8 adequately met by an existing guardian with the additional powers pursuant to
9 section 14-5312.01 and that a court order for treatment is not necessary to
10 ensure compliance with necessary treatment, the court may terminate the court
11 order for treatment or decline to issue an order continuing court-ordered
12 treatment. The court may also order an investigation into the need for
13 guardianship or conservatorship, or both, and may appoint a suitable person
14 or agency to conduct the investigation. The appointee may include a
15 court-appointed guardian ad litem, a court-appointed investigator pursuant to
16 section 14-5308 or the public fiduciary if there is no person willing and
17 qualified to act in that capacity. The court shall give notice of the
18 appointment to the appointee within three days after the appointment. The
19 appointee shall submit the report of the investigation to the court within
20 twenty-one days. The report shall include recommendations as to who should
21 be guardian or conservator, or both, and the findings and reasons for the
22 recommendation. If the investigation and report so indicate, the court may
23 authorize an appropriate person to file a petition for appointment of a
24 guardian or conservator for the patient.

25 H. If a hearing is held pursuant to subsection G of this section, the
26 party seeking the renewal of the court order must prove all of the following
27 by clear and convincing evidence:

28 1. The patient continues to have a mental disorder and, as a result of
29 that disorder, ~~is either persistently or acutely disabled or is gravely~~
30 ~~disabled~~ HAS EITHER A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY.

31 2. The patient is in need of continued court-ordered treatment.

32 3. The patient is either unwilling or unable to accept treatment
33 voluntarily.

34 I. After a hearing held pursuant to subsection G of this section, the
35 court may order the patient to be released from court-ordered treatment or to
36 undergo continued court-ordered treatment for a period not to exceed the time
37 periods prescribed in section 36-540, subsection D.

38 J. The deputy director shall create and operate a program to ensure
39 that the examination and review of ~~gravely disabled persons or persistently~~
40 ~~or acutely disabled~~ persons WITH GRAVE DISABILITIES OR PERSISTENT OR ACUTE
41 DISABILITIES under court order are carried out in an effective and timely
42 manner. The deputy director, with the approval of the director, shall adopt
43 rules needed to operate this program.

1 Sec. 115. Section 36-548, Arizona Revised Statutes, is amended to
2 read:

3 36-548. Court-ordered treatment by the United States department
4 of veterans affairs or other agency of the United
5 States

6 A. Whenever, in any proceeding under the laws of this state for the
7 court-ordered treatment of a person alleged to be, as a result of a mental
8 disorder, a danger to self or to others, ~~persistently or acutely disabled or~~
9 ~~gravely disabled~~ WITH A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY,
10 it is determined after such adjudication of the status of such person as may
11 be required by law that hospitalization in a mental health treatment agency
12 is necessary for treatment, and it appears that the person is eligible for
13 care or treatment by the United States department of veterans affairs or
14 other agency of the United States, the court, on receipt of a certificate
15 from the United States department of veterans affairs or other agency showing
16 that facilities are available and that the person is eligible for care or
17 treatment, may order the person to undergo treatment by the United States
18 department of veterans affairs or other agency of the United States. A
19 person hospitalized in a United States department of veterans affairs
20 facility or institution operated by another agency of the United States in
21 accordance with the court's order for treatment shall be subject to the rules
22 and regulations of the United States department of veterans affairs or other
23 agency whether the facility is located within or without the state. The
24 chief officer of the United States department of veterans affairs facility or
25 other institution by another agency of the United States in which the person
26 is hospitalized shall with respect to the person be vested with the same
27 powers as the medical director of a mental health treatment agency with
28 respect to the continuation of hospitalization or release. Jurisdiction is
29 retained by the court that ordered the treatment of the patient or other
30 superior court of the state at any time to inquire into the mental condition
31 of the person and to determine the necessity for continuance of the person's
32 hospitalization.

33 B. The judgment or order of commitment by a court of competent
34 jurisdiction of another state or of the District of Columbia committing a
35 person to the United States department of veterans affairs or other agency of
36 the United States for care or treatment shall have the same force and effect
37 as to the committed person while in this state as in the jurisdiction where
38 the court that entered the judgment or made the order is located, and the
39 courts of the committing state or of the District of Columbia shall be deemed
40 to have retained jurisdiction of the person so committed for the purpose of
41 inquiring into the mental condition of the person, and of determining the
42 necessity for continuance of the person's hospitalization as provided by
43 subsection A of this section with respect to persons ordered to undergo
44 treatment by the courts of this state. Consent is given to the application
45 of the law of the committing state or District of Columbia with respect to

1 the authority of the chief officer of any facility of the United States
2 department of veterans affairs or any institution operated in this state by
3 any other agency of the United States to retain custody of or transfer,
4 parole, or discharge the committed person.

5 C. On receipt of a certificate of the United States department of
6 veterans affairs or other agency of the United States that facilities are
7 available for the care or treatment of any person ordered to undergo
8 treatment in a mental health treatment agency and that the person is eligible
9 for care or treatment, the medical director of the mental health treatment
10 agency may cause the transfer of the person to a United States department of
11 veterans affairs facility or institution operated by another agency of the
12 United States for care or treatment. On effecting any such transfer, the
13 superior court that ordered treatment for the patient shall be notified by
14 the transferring agency. A person shall not be transferred to a United
15 States department of veterans affairs facility or institution operated by
16 another agency of the United States if the person is confined pursuant to an
17 order of a superior court under rules of criminal procedure, unless before
18 that transfer the superior court enters an order for the transfer.

19 D. A person transferred as provided in this section is deemed to have
20 been ordered to undergo treatment by the United States department of veterans
21 affairs or other agency of the United States pursuant to the original court
22 order for treatment. A person ordered to undergo treatment by the United
23 States department of veterans affairs or transferred to the United States
24 department of veterans affairs as provided in this section shall not be
25 removed from the state for evaluation or treatment without specific informed
26 consent of the patient or the person's legal guardian.

27 Sec. 116. Section 36-551, Arizona Revised Statutes, is amended to
28 read:

29 36-551. Definitions

30 In this chapter, unless the context otherwise requires:

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

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

- 40 (a) Room and board.
- 41 (b) Habilitation.
- 42 (c) Appropriate personal care.
- 43 (d) Appropriate supervision.

44 3. "Adult household member" means a person who is at least eighteen
45 years of age and who resides in an adult developmental home, child

- 1 developmental foster home, secure setting or home and community based service
2 setting for at least thirty days or who resides in the household throughout
3 the year for more than a cumulative total of thirty days.
- 4 4. "Advisory council" means the developmental disabilities advisory
5 council.
- 6 5. "Arizona training program facility" means a state operated
7 institution for ~~developmentally disabled~~ clients WITH DEVELOPMENTAL
8 DISABILITIES of the department.
- 9 6. "Attributable to cognitive disability, epilepsy, cerebral palsy or
10 autism" means that there is a causal relationship between the presence of an
11 impairing condition and the developmental disability.
- 12 7. "Autism" means a condition characterized by severe disorders in
13 communication and behavior resulting in limited ability to communicate,
14 understand, learn and participate in social relationships.
- 15 8. "Case management" means coordinating the assistance needed by
16 persons with developmental disabilities and their families in order to ensure
17 that persons with developmental disabilities attain their maximum potential
18 for independence, productivity and integration into the community.
- 19 9. "Case manager" means a person who coordinates the implementation of
20 the individual program plan of goals, objectives and appropriate services for
21 persons with developmental disabilities.
- 22 10. "Cerebral palsy" means a permanently disabling condition resulting
23 from damage to the developing brain that may occur before, after or during
24 birth and that results in loss or impairment of control over voluntary
25 muscles.
- 26 11. "Child developmental foster home" means a residential setting in a
27 family home in which the care, physical custody and supervision of the child
28 are the responsibility, under a twenty-four hour care model, of the licensee
29 who serves as the foster parent of the child in the home setting and who, in
30 that capacity, is not an employee of the division or of a service provider
31 and the home provides the following services for a group of siblings or up to
32 three children with developmental disabilities:
- 33 (a) Room and board.
34 (b) Habilitation.
35 (c) Appropriate personal care.
36 (d) Appropriate supervision.
- 37 12. "Client" means a person receiving developmental disabilities
38 services from the department.
- 39 13. "Cognitive disability" means a condition that involves subaverage
40 general intellectual functioning, that exists concurrently with deficits in
41 adaptive behavior manifested before age eighteen and that is sometimes
42 referred to as intellectual disability.
- 43 14. "Community residential setting" means a child developmental foster
44 home, an adult developmental home or a secure setting operated or contracted
45 by the department in which persons with developmental disabilities live and

1 are provided with appropriate supervision by the service provider responsible
2 for the operation of the residential setting.

3 15. "Consent" means voluntary informed consent. Consent is voluntary
4 if not given as the result of coercion or undue influence. Consent is
5 informed if the person giving the consent has been informed of and
6 comprehends the nature, purpose, consequences, risks and benefits of the
7 alternatives to the procedure, and has been informed and comprehends that
8 withholding or withdrawal of consent will not prejudice the future provision
9 of care and services to the client. In cases of unusual or hazardous
10 treatment procedures performed pursuant to section 36-561, subsection A,
11 experimental research, organ transplantation and nontherapeutic surgery,
12 consent is informed if, in addition to the foregoing, the person giving the
13 consent has been informed of and comprehends the method to be used in the
14 proposed procedure.

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

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

18 18. "Developmental disability" means either a strongly demonstrated
19 potential that a child under six years of age ~~is developmentally disabled~~ HAS
20 A DEVELOPMENTAL DISABILITY or will become ~~developmentally disabled~~ A CHILD
21 WITH A DEVELOPMENTAL DISABILITY, as determined by a test performed pursuant
22 to section 36-694 or by other appropriate tests, or a severe, chronic
23 disability that:

24 (a) Is attributable to cognitive disability, cerebral palsy, epilepsy
25 or autism.

26 (b) Is manifested before age eighteen.

27 (c) Is likely to continue indefinitely.

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

30 (i) Self-care.

31 (ii) Receptive and expressive language.

32 (iii) Learning.

33 (iv) Mobility.

34 (v) Self-direction.

35 (vi) Capacity for independent living.

36 (vii) Economic self-sufficiency.

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

40 19. "Director" means the director of the department of economic
41 security.

42 20. "Division" means the division of developmental disabilities in the
43 department of economic security.

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

4 22. "Group home" means a residential setting for not more than six
5 persons with developmental disabilities that is operated by a service
6 provider under contract with the division and that provides, in a shared
7 living environment, room and board and daily habilitation. Group home does
8 not include an adult developmental home, a child developmental foster home, a
9 secure setting or an intermediate care facility for ~~the~~ persons with an
10 intellectual disability.

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

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

18 25. "Indigent" means a ~~developmentally-disabled~~ person WITH A
19 DEVELOPMENTAL DISABILITY whose estate or parent is unable to bear the full
20 cost of maintaining or providing services for that person in a developmental
21 disabilities program.

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

26 27. "Intermediate care facility for persons with an intellectual
27 disability" means a facility that primarily provides health and
28 rehabilitative services to persons with developmental disabilities that are
29 above the service level of room and board or supervisory care services or
30 personal care services as defined in section 36-401 but that are less
31 intensive than skilled nursing services.

32 28. "Large group setting" means a setting that in addition to
33 residential care provides support services such as therapy, recreation and
34 transportation to seven or more ~~developmentally-disabled~~ persons WITH
35 DEVELOPMENTAL DISABILITIES who require intensive supervision.

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

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

- 1 31. "Manifested before age eighteen" means that the disability must be
2 apparent and have a substantially limiting effect on a person's functioning
3 before age eighteen.
- 4 32. "Physician" means a person who is licensed to practice pursuant to
5 title 32, chapter 13 or 17.
- 6 33. "Placement evaluation" means an interview and evaluation of a
7 ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY and a review
8 of the person's prior medical and program histories to determine the
9 appropriate developmental disability programs and services for the person and
10 recommendations for specific program placements for the person.
- 11 34. "Psychologist" means a person who is licensed pursuant to title 32,
12 chapter 19.1.
- 13 35. "Respite services" means services that provide a short-term or
14 long-term interval of rest or relief to the care provider of a
15 ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY.
- 16 36. "Responsible person" means the parent or guardian of a
17 ~~developmentally disabled~~ minor WITH A DEVELOPMENTAL DISABILITY, the guardian
18 of ~~a developmentally disabled~~ AN adult WITH A DEVELOPMENTAL DISABILITY or a
19 ~~developmentally disabled~~ AN adult WITH A DEVELOPMENTAL DISABILITY who is a
20 client or an applicant for whom no guardian has been appointed.
- 21 37. "Secure facility" means a facility that is licensed and monitored
22 by the division, that is designed to provide both residential and program
23 services within the facility and that is operated to prevent clients from
24 leaving because of the danger they may present to themselves and the
25 community.
- 26 38. "Service provider" means a person or agency that provides services
27 to clients pursuant to a contract, service agreement or qualified vendor
28 agreement with the division.
- 29 39. "State operated service center" means a state owned or leased
30 facility that is operated by the department and that provides temporary
31 residential care and space for child and adult services that include respite
32 care, crisis intervention and diagnostic evaluation.
- 33 40. "Subaverage general intellectual functioning" means measured
34 intelligence on standardized psychometric instruments of two or more standard
35 deviations below the mean for the tests used.
- 36 41. "Substantial functional limitation" means a limitation so severe
37 that extraordinary assistance from other people, programs, services or
38 mechanical devices is required to assist the person in performing appropriate
39 major life activities.
- 40 42. "Supervision" means the process by which the activities of an
41 individual with developmental disabilities are directed, influenced or
42 monitored.

1 H. ~~Developmentally disabled~~ Persons WITH DEVELOPMENTAL DISABILITIES
2 have the right to presumption of legal competency in guardianship
3 proceedings.

4 I. ~~Developmentally disabled~~ Persons WITH DEVELOPMENTAL DISABILITIES
5 have the right to fair compensation for labor.

6 J. Each client who has been accepted to receive developmental
7 disability services has the right to receive a written individual program
8 plan. Each plan shall be developed by appropriate department personnel with
9 the participation of the client and the client's parent or guardian, if any,
10 and shall be based on the relevant results of the placement evaluation.

11 K. Every client has the right to periodic review of the individual
12 program plan to measure progress, to modify objectives and programs if
13 necessary and to provide guidance and remediation techniques.

14 L. Each client and each parent or guardian of a minor client or the
15 guardian of an adult client has the right to participate in the client's
16 initial placement evaluation and periodic evaluations and to be informed in
17 writing of the client's progress at reasonable intervals. Whenever possible,
18 the responsible person shall be given the opportunity to decide among several
19 appropriate alternative services available to the client from the service
20 provider.

21 M. The responsible person has the right to withdraw the client from
22 developmental disability programs and services unless the client was assigned
23 to the department by the juvenile court. If a client is assigned pursuant to
24 section 36-559, subsection D, the client shall seek and receive the court's
25 permission before the client may withdraw.

26 N. Clients have the right to be free from mistreatment, neglect and
27 abuse by service providers.

28 O. Each client has the right to be free from unnecessary and excessive
29 medication. Medication shall not be used as punishment, for the convenience
30 of the staff, as a substitute for an individual program plan, or in
31 quantities that interfere with the client's individual program
32 plan. Prescription-only medication for each client shall be authorized only
33 by the prescription of a physician and the administration of such medication
34 shall be directed by a physician.

35 P. On admission for developmental disability services, each client and
36 the client's parent or guardian, if any, shall be given written notice, if
37 possible, and oral notice in their primary language, in a manner which can be
38 easily understood, of the rights included in this chapter, including the
39 right to administrative reviews. If written or oral language is not the
40 primary mode of communication of the client or the client's parent or
41 guardian, notice shall be given to that person in the primary mode of
42 communication, if possible. However, if a client is manifestly unable to
43 comprehend these rights, notice to the parent or guardian of a minor client
44 or to the guardian of an adult client shall be sufficient.

1 Q. ~~Developmentally disabled~~ Persons WITH DEVELOPMENTAL DISABILITIES
2 who are residents in residential programs operated or supported by the
3 department have the right to a humane and clean physical environment, the
4 right to communication and visits and the right to personal property.

5 R. A ~~developmentally disabled~~ child WITH A DEVELOPMENTAL DISABILITY
6 has the right to appropriate services that are consistent with the child's
7 written individual program plan. These services do not require the
8 relinquishment or restriction of parental rights or custody except as
9 prescribed in section 8-533. These services are subject to available
10 appropriations if they are not mandated by federal law.

11 S. Any ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY
12 or the parent or guardian of a ~~developmentally disabled~~ person WITH A
13 DEVELOPMENTAL DISABILITY who believes that his rights, as established by this
14 chapter or by the Constitution of the United States or the Constitution of
15 Arizona, have been violated has a right to petition the superior court for
16 redress unless other remedies exist under federal or state laws.

17 Sec. 118. Section 36-552, Arizona Revised Statutes, is amended to
18 read:

19 36-552. Developmental disabilities function; expenditure
20 limitation

21 A. The department shall function as the developmental disabilities
22 authority for the state of Arizona.

23 B. No provisions of this chapter shall be construed to give the
24 department control of lawful activities of other governmental agencies or of
25 activities of the universities or colleges of this state in the field of
26 developmental disabilities, unless by specific contract or agreement
27 therefor.

28 C. Subject to annual legislative appropriation and other available
29 funding, the department shall provide a wide variety of developmental
30 disability programs and services throughout the state in response to the wide
31 range of developmental disability conditions, the capabilities of
32 ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES and the
33 presence of other ~~handicapping~~ DISABLING conditions for ~~developmentally~~
34 ~~disabled~~ persons WITH DEVELOPMENTAL DISABILITIES.

35 D. The department may contract with other state agencies and with
36 private agencies to provide the developmental disabilities program or
37 service.

38 E. The total amount of state monies that may be spent in any fiscal
39 year by the department for developmental disabilities services pursuant to
40 this chapter shall not exceed the amount appropriated or authorized by
41 section 35-173 for that purpose. This chapter shall not be construed to
42 impose a duty on an officer, agent or employee of this state to discharge a
43 responsibility or to create any right in a person or group if the discharge
44 or right would require an expenditure of state monies in excess of the

1 expenditure authorized by legislative appropriation for that specific
2 purpose.

3 Sec. 119. Section 36-553, Arizona Revised Statutes, is amended to
4 read:

5 36-553. Developmental disabilities advisory council:
6 membership; duties

7 A. The developmental disabilities advisory council is established
8 consisting of the following members:

9 1. One parent or guardian of a child who is under the age of eighteen
10 years and who ~~is developmentally disabled~~ HAS A DEVELOPMENTAL DISABILITY.

11 2. One parent or guardian of a child who is eighteen years of age or
12 older and who ~~is developmentally disabled~~ HAS A DEVELOPMENTAL DISABILITY.

13 3. One parent of a child who is served through the Arizona early
14 intervention program.

15 4. One member of the private sector who represents an agency that is
16 certified to provide in-home services to persons with developmental
17 disabilities.

18 5. Two members of the private sector who are contracted with the
19 division to deliver services to persons with developmental disabilities, one
20 who represents a provider of residential services and one who represents a
21 provider of adult day services including employment services.

22 6. Two members with a developmental disability who receive services
23 from the division.

24 7. Two members each representing a different developmental disability
25 advocacy organization.

26 8. One member from the designated protection and advocacy
27 organization.

28 9. A member representing a nonprofit organization providing direct
29 advocacy to families with ~~developmentally disabled~~ children WITH
30 DEVELOPMENTAL DISABILITIES.

31 10. The director of the Arizona health care cost containment system
32 administration or the director's designee. This person is a nonvoting
33 member.

34 11. The assistant director of the division of developmental
35 disabilities. This person is a nonvoting member.

36 12. One member from the developmental disabilities planning council.

37 13. One member representing foster parents of children with
38 developmental disabilities.

39 14. One member from the human rights committee on ~~the developmentally~~
40 ~~disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES established by section
41 41-3801.

42 B. The governor shall appoint all voting members. Voting members and
43 their families shall not be employees of the department of economic security.
44 In making these appointments the governor shall select at least five members
45 who are clients or guardians, parents or other family members of persons with

1 developmental disabilities. One of these five voting members shall represent
2 a person who is eligible for long-term care services pursuant to chapter 29,
3 article 2 of this title. The governor shall also consider geographic
4 representation in making these appointments.

5 C. Council members appointed pursuant to subsection A, paragraphs 1
6 through 9 and 13 and 14 of this section shall serve staggered three year
7 terms. No members may serve more than two full terms. A vacancy occurring
8 on the council shall be filled by the governor appointing another qualified
9 person to serve the remainder of the term.

10 D. The council chairman shall be chosen annually by a majority vote of
11 the council. A majority of voting council members constitutes a quorum.

12 E. The council shall meet in each district at least once a year.

13 F. The division must allow the council to review new policies and
14 major policy changes before the division submits the policies or changes for
15 public comment.

16 G. The council shall review auditor general reports regarding the
17 division and services provided by the department of health services.

18 H. Council members are not eligible to receive compensation, but
19 council members appointed pursuant to subsection A, paragraphs 1 through 9
20 and 13 and 14 of this section are eligible to receive reimbursement of
21 expenses pursuant to title 38, chapter 4, article 2.

22 I. The council shall review and make recommendations to the division
23 regarding:

24 1. Coordinating and integrating services provided by state agencies
25 and providers that have contracted with state agencies to provide
26 developmental disability programs.

27 2. The health, safety, welfare and legal rights of persons with
28 developmental disabilities.

29 3. The division's plan for service delivery and improvement.

30 4. Establishing and reviewing division policies and programs.

31 5. The cost-effectiveness of division services.

32 6. Assessing the division's annual needs.

33 7. Selecting the assistant director of the division.

34 8. Monitoring the division's annual budget.

35 9. The sale or lease of the real property and improvements on the real
36 property formerly used by the department of economic security for the Arizona
37 training program in Phoenix.

38 J. The council shall oversee and approve expenditures of monies from
39 the ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES client
40 services trust fund established in section 36-572 following expenditure
41 guidelines established by the council.

42 K. The council shall provide the public with an opportunity to address
43 the council at regularly publicized meetings.

1 L. The council shall submit an annual report of activities to the
2 director, the governor, the president of the senate and the speaker of the
3 house of representatives by December 31 of each year.

4 M. The department shall make meeting space available to the
5 developmental disabilities advisory council at locations and times convenient
6 to the council and shall provide secretarial and other staff support.

7 Sec. 120. Section 36-554, Arizona Revised Statutes, is amended to
8 read:

9 36-554. Powers and duties of director

10 A. The director shall:

11 1. Be responsible for developing and annually revising a statewide
12 plan and initiating statewide programs and ~~service~~ SERVICES for ~~the~~
13 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES in locations
14 where the programs and services are necessary, which shall include:

15 (a) Child services, which may include infant stimulation,
16 developmental training for pre-school children and special education at
17 Arizona training program facilities for school-age, ~~developmentally disabled~~
18 children WITH DEVELOPMENTAL DISABILITIES residing at Arizona training program
19 facilities who do not attend public school.

20 (b) Adult services, in coordination with the vocational rehabilitation
21 services of the department, which may include but not be limited to job
22 training and training and adjustment services, job development and placement,
23 sheltered employment and other nonvocational day activity services for
24 adults.

25 (c) Residential services, including various community residential
26 settings, Arizona training program facilities and state operated service
27 centers which provide varying levels of supervision in accordance with the
28 developmental disability levels of the persons placed at such settings,
29 facilities or centers. The department shall contract with private profit or
30 nonprofit agencies to provide appropriate residential settings for
31 ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES which
32 provide for regular assistance and supervision of such persons and which
33 provide varied developmental disability programs and services on or near the
34 community residential setting.

35 (d) Resource services, which may include comprehensive evaluation
36 services, information and referral services and outpatient rehabilitation and
37 social development services. The department in providing developmental
38 disability programs and services shall whenever practicable utilize qualified
39 private contractors. In selecting private contractors, the department shall
40 utilize those contractors which can clearly demonstrate an ability to perform
41 such contract in accordance with standards and specifications adopted by the
42 department.

43 2. Establish standards, provide technical assistance, and supervise
44 all developmental disability programs and services operated by or supported
45 by the department.

1 3. Coordinate the planning and implementation of developmental
2 disability programs and activities, institutional and community, of all state
3 agencies, provided this shall not be construed as depriving other state
4 agencies of jurisdiction over, or the right to plan for, control, and operate
5 programs that pertain to developmental disability programs but that fall
6 within the primary jurisdiction of such other state agencies.

7 4. Periodically assess the effectiveness of the quality assurance
8 system as required by 42 Code of Federal Regulations section 434.34 as it
9 pertains to developmental disabilities programs.

10 5. License community residential settings pursuant to this chapter.

11 6. Develop rules establishing a procedure for handling complaints
12 about community residential settings.

13 7. Inform in writing every parent or guardian of a ~~developmentally~~
14 ~~disabled~~ client WITH A DEVELOPMENTAL DISABILITY residing at or transferring
15 to a community residential setting of the complaint handling procedure.

16 8. As new community residential settings are developed over a period
17 of time, reduce the clientele at Arizona training program facilities to those
18 ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES who are
19 required to be in Arizona training program facilities because the community
20 lacks an appropriate community residential setting that meets their
21 individual needs or whose parents or legal guardians want them in an Arizona
22 training program facility.

23 9. In conjunction with the division, individuals with developmental
24 disabilities and their families, advocates, community members and service
25 providers, develop, enhance and support environments that enable individuals
26 with developmental disabilities to achieve and maintain physical well-being,
27 personal and professional satisfaction, participation as family and community
28 members and safety from abuse and exploitation.

29 10. Do all other things reasonably necessary and proper to carry out
30 the duties and the provisions of this chapter.

31 11. Adopt rules regarding procurement procedures similar to those found
32 in title 41, chapter 23.

33 B. Programs and services offered pursuant to subsection A, paragraph 1
34 of this section shall be provided in cooperation with public and private
35 resources that can best meet the needs of ~~developmentally disabled~~ persons
36 WITH DEVELOPMENTAL DISABILITIES and that are located in the community and in
37 proximity to the persons being served.

38 C. The director may:

39 1. Establish nonresidential outpatient programs for placement,
40 evaluation, care, treatment and training of ~~developmentally disabled~~ persons
41 WITH DEVELOPMENTAL DISABILITIES residing in the community who are not
42 eligible for public school programs, and who do not have access to other
43 state supported programs providing equivalent services.

44 2. Develop cooperative programs with other state departments and
45 agencies, political subdivisions of the state, and private agencies concerned

1 with and providing services for ~~the developmentally disabled~~ PERSONS WITH
2 DEVELOPMENTAL DISABILITIES.

3 3. Contract for the purchase of services with other state and local
4 governmental or private agencies. Such agencies are authorized to accept and
5 expend funds received pursuant to such contracts.

6 4. Stimulate research by public and private agencies, institutions of
7 higher learning, and hospitals in the interest of the prevention of
8 developmental disabilities and improved methods of care and training for ~~the~~
9 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

10 5. Apply for, accept, receive, hold in trust or use in accordance with
11 the terms of the grant or agreement any public or private funds or
12 properties, real or personal, granted or transferred to it for any purpose
13 authorized by this chapter.

14 6. Make and amend rules from time to time as deemed necessary for the
15 proper administration of programs and services for the treatment of
16 ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES, for the
17 admission of ~~developmentally disabled~~ persons WITH DEVELOPMENTAL DISABILITIES
18 to the programs and services and to carry out the purposes of this chapter.

19 Sec. 121. Section 36-555, Arizona Revised Statutes, is amended to
20 read:

21 36-555. Coordination of programs by department with special
22 education programs

23 A. The department may conduct jointly, directly or indirectly, with a
24 school district the placement evaluation of a ~~developmentally disabled~~ person
25 WITH A DEVELOPMENTAL DISABILITY who has applied for or is receiving
26 developmental disability programs or services from the department and who is
27 either enrolled or in the process of being evaluated for enrollment in a
28 special education program or may contract with such school district to
29 provide the evaluation for the school district or to have the school district
30 provide the placement evaluation for the department. With consent of the
31 parent the evaluation information may be shared by and among department of
32 economic security and department of education personnel, or personnel from
33 the local education agency, for purposes of ensuring the provision of special
34 education and related services as required by the individuals with
35 disabilities education act (20 United States Code sections 1400 through
36 1415).

37 B. The department shall coordinate its development of an individual
38 program plan for a ~~developmentally disabled~~ person WITH A DEVELOPMENTAL
39 DISABILITY who has applied for or who is receiving developmental disability
40 programs or services provided directly or indirectly by the department with
41 the school district in which the ~~developmentally disabled~~ person WITH A
42 DEVELOPMENTAL DISABILITY is enrolled with the school district's development
43 of an individual education program plan for such person.

44 C. When a ~~developmentally disabled~~ child WITH A DEVELOPMENTAL
45 DISABILITY has received developmental disabilities programs or services

1 provided directly or indirectly by the department, upon request of the
2 responsible person or the school district in which the child is enrolled, the
3 department shall provide follow-up placement evaluation and case management
4 services for the ~~developmentally-disabled~~ child WITH A DEVELOPMENTAL
5 DISABILITY for a period of six months after the child has become enrolled in
6 the school district.

7 D. During the one-year period prior to the graduation or other
8 termination of school attendance by a ~~developmentally-disabled~~ person WITH A
9 DEVELOPMENTAL DISABILITY, the department shall, upon the request of the
10 responsible person, provide placement evaluation and case management services
11 for such person. Such evaluation shall consider the person's needs for
12 housing, employment training, employment and support services.

13 E. The department of economic security shall coordinate the
14 residential placement of all school-age ~~developmentally-disabled~~ persons WITH
15 DEVELOPMENTAL DISABILITIES in residential housing facilities operated or
16 supported by the department of economic security with the school districts in
17 which such residential facilities will be located and with the department of
18 education in a manner which will make best use of existing programs and
19 facilities and operational capabilities and which will not cause serious
20 overcrowding of school facilities or programs.

21 Sec. 122. Section 36-556, Arizona Revised Statutes, is amended to
22 read:

23 36-556. Coordination with division of behavioral health; duties
24 of department

25 The department shall coordinate with the division of behavioral health
26 in the department of health services in:

27 1. The development of specialized programs for ~~developmentally~~
28 ~~disabled~~ persons WITH DEVELOPMENTAL DISABILITIES at the state hospital.

29 2. Planning and providing residential care services and related child,
30 adult and resource services for ~~developmentally-disabled~~ persons WITH
31 DEVELOPMENTAL DISABILITIES upon their discharge from the state hospital, in
32 accordance with section 36-560. The division of behavioral health shall
33 provide notice fifteen days prior to discharge.

34 Sec. 123. Section 36-557, Arizona Revised Statutes, is amended to
35 read:

36 36-557. Community developmental disability services; service
37 providers

38 A. The department may use state and federal monies appropriated or
39 otherwise available to it for this purpose to assist in the establishment and
40 maintenance of local developmental disability services by public or private
41 nonprofit or profit agencies. The monies may be expended as professional
42 fees for service, in contracts for advancement or reimbursement or in another
43 appropriate manner and may be used for any purpose necessary to the provision
44 of local developmental disability services. The monies may not be used for
45 departmental salaries, care of ~~developmentally-disabled~~ persons WITH

1 **DEVELOPMENTAL DISABILITIES** by the department or any other purpose within the
2 department, but may be used for consultation to the department in the
3 interest of local programs.

4 B. A local public or private nonprofit or profit agency providing or
5 intending to provide community developmental disability services and desiring
6 to contract with the department for the furnishing of these services shall
7 submit a program plan and budget to the department on the forms and in the
8 manner required by the department. If the program meets departmental
9 standards and is consistent with the state plan of the department and the
10 individualized service program plan of the client, the department,
11 notwithstanding the provisions of title 41, chapter 23, relating to
12 procurement and including services pursuant to section 36-2943, may contract
13 with that agency for required services on terms the department requires. The
14 contracts shall provide that the provider of services is subject to a
15 continuing program evaluation by the department through progress reports,
16 expenditure reports, program audits or other appropriate evaluation
17 techniques to assure that the provider of service is in continued compliance
18 with the terms of the contract and the department's community developmental
19 disability service standards and requirements.

20 C. Contracts between the department and a school district or districts
21 are subject to approval by the department of education.

22 D. This article does not make the department or the state responsible
23 for funding programs beyond the limits of legislative appropriation for the
24 programs. This article does not require a provider of services to provide
25 unreimbursed services to the department or its clients.

26 E. Contracts to provide community developmental disability services
27 shall require that:

28 1. The contractor is obligated to operate a program or service in
29 strict accordance with the standards adopted for that program or service by
30 the department.

31 2. If state funding is provided for a particular program the
32 contractor, to the extent of positions available that are being purchased by
33 the department, shall provide services to a ~~developmentally disabled~~
34 **WITH A DEVELOPMENTAL DISABILITY** who has been evaluated and placed by the
35 department.

36 3. All contractors must carry liability insurance in amounts approved
37 by the risk management division of the department of administration and file
38 proof of insurance with the risk management division. The director may waive
39 that requirement on a case by case basis on a finding that insurance for the
40 program or service is not practicably available at affordable rates and that
41 it is necessary that the program or service be provided by the contractor.

42 4. All clients enrolled in programs have all the same specified rights
43 as they would have if enrolled in a program operated directly by the state.

44 5. Except for emergency placement pursuant to section 36-560,
45 subsection N, payment shall not be made based on program services provided to

1 a client if a placement evaluation has not been made, and no individual
2 program has been prepared and when, based on that placement evaluation, no
3 recommendation has been made to enroll the client in the particular program
4 service.

5 F. This article does not require a contracted agency to provide
6 unreimbursed services to the department or a client of the department.

7 G. Contracts for the purchase of residential care services other than
8 those community residential settings licensed pursuant to this chapter, in
9 addition to other general requirements applicable to purchase of care
10 contractors, shall:

11 1. Provide for mandatory inspection by the department every two years
12 for facilities other than group homes.

13 2. Provide for mandatory monitoring by the department for health,
14 safety, contractual and programmatic standards at least every six months,
15 unless the department has granted deemed status to the service provider or
16 the service provider received a score of at least ninety-five per cent on the
17 most recent monitoring visit. If the department has granted deemed status or
18 awarded the service provider with a score of at least ninety-five per cent on
19 the most recent monitoring visit, it shall monitor that provider once each
20 year. On determination by the department that there is reasonable cause to
21 believe a service provider is not adhering to the department's programmatic
22 or contractual requirements, the department and any duly designated employee
23 or agent of the department may enter on and into the premises at any
24 reasonable time for the purpose of determining the state of compliance with
25 the programmatic or contractual requirements of the department.

26 3. Provide for mandatory investigation by the department in response
27 to complaints within ten working days, except that in those instances that
28 pose a danger to the client, the department shall conduct the investigation
29 immediately. Health and safety complaints related to group homes shall be
30 referred to the department of health services on receipt. The department of
31 health services shall share all incident reports related to health and safety
32 with the division of developmental disabilities.

33 4. Except for group homes licensed by the department of health
34 services, specify the health and safety and sanitation codes and other codes
35 or standards applicable to the facility or to the operation of the facility
36 by the contractor other than group homes.

37 5. Provide for mandatory periodic reports to be filed by the provider
38 contractor with the department with respect to the operation of the facility.

39 6. Provide that the facility and the books and records of the facility
40 and of the provider are subject to inspection at any time by employees of the
41 department or designees of the department.

42 7. Provide that parents and guardians of ~~developmentally disabled~~
43 persons **WITH DEVELOPMENTAL DISABILITIES** residing at the facility, members of
44 the developmental disabilities advisory council, and members of other

1 recognized and ongoing advocacy groups for ~~developmentally disabled~~ persons
2 WITH DEVELOPMENTAL DISABILITIES may inspect the facility at reasonable times.

3 H. Contracts for purchase of residential care services shall require a
4 community residential setting to be licensed pursuant to this chapter other
5 than group homes licensed by the department of health services.

6 I. The division shall ensure that all contracted developmental
7 disabilities service providers rendering services pursuant to this chapter
8 are reimbursed in accordance with title XIX of the social security act.

9 J. Contracts for client services issued by the department shall
10 include language outlining the provisions for a grievance and appeal
11 procedure. The director shall provide notice to providers not less than
12 thirty days before the issuance of an amendment to a qualified vendor
13 agreement. The decision of the director regarding qualified vendor agreement
14 amendments may be appealed pursuant to title 41, chapter 6, article 10. The
15 grievance process applicable to these contracts shall comply with title XIX
16 requirements.

17 K. As a condition of contracts with any developmental disabilities
18 service provider, the director shall require terms that conform with state
19 and federal laws, title XIX statutes and regulations and quality standards.
20 The director shall further require contract terms that ensure performance by
21 the provider of the provisions of each contract executed pursuant to this
22 article.

23 L. The division shall establish a rate structure that ensures an
24 equitable funding basis for private nonprofit or for profit agencies for
25 services pursuant to subsection B of this section and section 36-2943. In
26 each fiscal year, the division shall review and adjust the rate structure
27 based on section 36-2959. A rate book shall be published and updated by the
28 division to announce the rate structure that shall be incorporated by
29 reference in contracts for client services.

30 M. The division shall disclose to a service provider in the individual
31 program plan defined by section 36-551, and in all meetings resulting from a
32 response to a vendor call, any historical and behavioral information
33 necessary for the provider to be able to anticipate the client's future
34 behaviors and needs, including summary information from the program review
35 committee, unusual incident reports reviewed by the human rights committee
36 and behavioral treatment plans. The division shall redact the client's
37 identification from this information.

38 N. Service providers are authorized to engage in the following
39 activities in accordance with a client's individual program plan:

40 1. Administer medications, including assisting with the client's
41 self-administration of medications.

42 2. Log, store, remove and dispose of medications.

43 3. Maintain medications and protocols for direct care.

44 4. Serve as the client's representative payee if requested by the
45 client or the client's guardian and approved by the payer.

1 O. The department may adopt rules establishing procedures for engaging
2 in the activities listed in subsection N of this section.

3 P. To protect the health and safety of a client, a provider must
4 notify the division within twenty-four hours if an emergency situation exists
5 in which the provider is unable to meet the health or safety needs of the
6 client.

7 Q. On notification of an emergency situation, the department shall
8 hold an individual program plan meeting within fifteen days after
9 notification to recommend any changes, including whether there is a need for
10 temporary additional staffing to provide appropriate care for a client, and
11 develop a plan within thirty days after notification to resolve the
12 situation.

13 Sec. 124. Section 36-558.01, Arizona Revised Statutes, is amended to
14 read:

15 36-558.01. Operation, support and supervision of foster homes;
16 duties of department

17 A. The department shall operate directly or support and supervise
18 child developmental foster homes and foster homes licensed pursuant to title
19 8, chapter 5, article 1 to provide specialized foster care to ~~developmentally~~
20 ~~disabled~~ persons WITH DEVELOPMENTAL DISABILITIES. Such homes shall be
21 operated for persons placed pursuant to sections 8-514.01 and 8-845 and for
22 appropriate placements for persons for whom application for residential
23 services has been made to the department.

24 B. In furtherance of its responsibility pursuant to subsection A, the
25 department shall recruit, license and support such homes in accordance with
26 the provisions of this chapter, maintain regular supervision of such homes
27 and such placements, conduct training programs for the staff of such homes
28 and develop the program and service standards for ~~developmentally disabled~~
29 persons WITH DEVELOPMENTAL DISABILITIES to be placed in such homes.

30 C. Foster homes supported by the department shall be paid for each
31 ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY placed in the
32 home an amount determined by the department based on the type of
33 developmental disability and the consequent need for programs and services of
34 each person so placed.

35 Sec. 125. Section 36-559, Arizona Revised Statutes, is amended to
36 read:

37 36-559. Eligibility for developmental disabilities programs,
38 services and facilities

39 A. Except as provided in subsection B of this section, a person with a
40 developmental disability is eligible to apply for developmental disabilities
41 programs, services and facilities operated by, licensed and supervised by or
42 supported by the department if such person:

43 1. Is a bona fide resident of the state of Arizona.

44 2. Is ~~developmentally disabled~~ A PERSON WITH A DEVELOPMENTAL
45 DISABILITY as defined in this chapter and provides medical and psychological

1 documentation of such developmental disability utilizing tests which are
2 culturally appropriate and valid, or is an infant and as a result of tests
3 performed pursuant to section 36-694, or other appropriate tests, there is
4 strongly demonstrated potential that the infant ~~is developmentally disabled~~
5 HAS A DEVELOPMENTAL DISABILITY or will ~~become developmentally disabled~~ HAVE A
6 DEVELOPMENTAL DISABILITY.

7 B. After the department conducts preadmission screening pursuant to
8 section 36-2936 and determines that a ~~developmentally disabled~~ person WITH A
9 DEVELOPMENTAL DISABILITY may be potentially eligible for the Arizona
10 long-term care system pursuant to chapter 29, article 2 of this title, the
11 person shall be referred to the Arizona health care cost containment system
12 administration for an eligibility determination pursuant to section 36-2933,
13 if either of the following applies:

14 1. The person is a new applicant who is not receiving services and
15 applies for services pursuant to this chapter.

16 2. The person is eligible for services pursuant to this chapter and
17 would receive services, other than case management, if state funding were
18 available.

19 C. A person who is referred to the Arizona health care cost
20 containment system administration shall first be determined eligible or
21 ineligible for the Arizona long-term care system, pursuant to chapter 29,
22 article 2 of this title, before receiving services pursuant to this
23 chapter. Applicants who voluntarily refuse to cooperate in the eligibility
24 process are not eligible for services pursuant to this chapter. An
25 applicant's or current service recipient's refusal to establish or convert an
26 estate or trust pursuant to section 36-2934.01 shall be deemed a voluntary
27 refusal to cooperate. A form explaining loss of benefits due to a voluntary
28 refusal to cooperate shall be signed by the applicant or current service
29 recipient. Voluntary refusal to cooperate shall not be construed to mean the
30 applicant's inability to obtain documentation required for eligibility
31 determination.

32 D. The department shall determine eligibility. If the person is not
33 eligible, the department of economic security shall refer the person to the
34 department of health services for treatment as directed by the court to
35 coordinate necessary and reasonable services. Services provided pursuant to
36 this subsection are subject to the availability of funding.

37 Sec. 126. Section 36-560, Arizona Revised Statutes, is amended to
38 read:

39 36-560. Admission

40 A. Persons shall be admitted to developmental disabilities programs or
41 services operated by or supported by the department only pursuant to the
42 procedures prescribed in this chapter. An application for admission shall be
43 submitted on forms provided by the department in accordance with the rules
44 and procedures adopted by the department.

1 B. Admission into any developmental disabilities program or service
2 operated by the department or supported by the department is subject to
3 availability of space in any program or service and is subject to annual
4 legislative appropriation and other available funding.

5 C. A person shall not receive developmental disabilities services
6 unless proof of the requirements set forth in section 36-559 is provided.

7 D. An application shall be signed by the responsible person. An
8 admission or assignment of any client to a program, service or facility shall
9 not be made without the consent of the responsible person. If an application
10 for admission to a residential program is made for a client who is fourteen
11 to eighteen years of age and who is capable of giving voluntary informed
12 consent, that client and the client's parent or guardian shall jointly apply,
13 unless it appears to the department that the client is manifestly incapable
14 of giving consent. An adult capable of giving consent may apply for
15 admission and may be assigned to programs, services or facilities.

16 E. If an adult applicant applies for admission, or when a minor client
17 served directly or indirectly by the department becomes eighteen years of
18 age, and the applicant or client reasonably appears to be impaired by
19 developmental disabilities to the extent that the person lacks sufficient
20 understanding or capacity to make or communicate responsible decisions
21 concerning his person, the department shall require that prior to receiving
22 or continuing to receive developmental disabilities programs or services the
23 applicant have a guardian appointed pursuant to title 14, chapter 5, or shall
24 have had a judicial determination made that it is not necessary to appoint a
25 guardian for that person.

26 F. There shall be no judicial admissions except pursuant to section
27 8-242 and as stipulated in section 36-559, subsection D.

28 G. No person may be admitted or assigned to any developmental
29 disabilities facility, program or service unless the person has received a
30 placement evaluation to determine the need for the developmental disabilities
31 programs and services which are appropriate for that person and the
32 admittance or assignment is consistent with the recommendation or placement
33 evaluation. Each placement evaluation shall be governed by the following
34 conditions:

35 1. The placement evaluation team shall consist of a group assigned by
36 the department which shall include a department employee to serve as the case
37 manager, the parent or guardian of the applicant and appropriate program
38 staff of the department. Counsel for the applicant and a friend or advocate
39 of the applicant designated in the application for admission may also attend
40 the evaluation sessions for the applicant.

41 2. A placement evaluation report shall be prepared within thirty days
42 after the placement evaluation is initiated which shall recommend the
43 assignment of the applicant to certain designated types of developmental
44 disabilities programs or services operated by or supported by the department.

1 In this process the specific assignment request of the responsible person
2 shall be given strong consideration.

3 3. A placement evaluation conducted by the department for the purpose
4 of determining appropriate developmental disabilities programs and services
5 shall not include an evaluation of a child for placement in a special
6 education program in a school district.

7 4. The procedure prescribed in section 36-559, subsection D
8 constitutes a placement evaluation for the purposes of this chapter.

9 H. The standards for determining the assignment for the applicant to a
10 particular service shall be in the best interest of the client, taking into
11 consideration the age, the degree or type of developmental disability, the
12 presence of other ~~handicapping~~ **DISABLING** conditions of the applicant, the
13 ability to provide the applicant with the maximum opportunity to develop the
14 person's maximum potential, to provide a minimally structured residential
15 program and environment for the applicant and to provide a safe, secure and
16 dependable residential and program environment for the applicant and the
17 particular desires of the applicant. In making this determination, the
18 placement evaluation team shall consider the reports of all previous
19 placement-type evaluations performed for such applicant, the medical and
20 program history of the applicant and the services and programs available from
21 this state, contractors of this state and other providers.

22 I. After the placement evaluation report has been issued and the
23 responsible person accepts the assignment of all programs or services, the
24 department shall enroll the applicant in the programs or services within
25 thirty days, subject to the provisions of subsection B of this section. If
26 the applicant cannot be enrolled within thirty days, written and oral notice,
27 subject to the requirements of section 36-551.01, subsection P, shall be
28 given to the applicant and the responsible person, within ten days of the
29 department's determination that the applicant cannot be enrolled, informing
30 such persons of the department's determination. The notice shall also
31 include the appropriate procedures, which the applicant or the responsible
32 person should follow to assure that the applicant is enrolled.

33 J. The department may attach conditions to the direct or indirect
34 provision of services with which the client would be required to comply in
35 order to receive the services. These conditions may include requiring the
36 client to participate in appropriate day programs as a condition of providing
37 residential services and residential facilities. A client assigned to a
38 residential program may be required to assist in daily housework in
39 maintaining the facility as part of the client's individual program.

40 K. The department may refuse to provide specific services that are
41 requested by the client but that are not recommended for the client as a
42 result of the evaluation.

43 L. Application for admission shall be one of the following types:

44 1. "Regular admission" for placement of a ~~developmentally disabled~~
45 person **WITH A DEVELOPMENTAL DISABILITY** for developmental disabilities

1 programs and services after a placement evaluation has been conducted for
2 such person.

3 2. "Emergency admission" for placement of a ~~developmentally disabled~~
4 person WITH A DEVELOPMENTAL DISABILITY when there is an immediate and
5 compelling need for short-term developmental disabilities programs and
6 services.

7 M. Regular admission shall be permitted only after a placement
8 evaluation has been conducted and only if space is available at the facility
9 or in the program or service in which placement is requested.

10 N. Emergency admission for ~~developmentally disabled~~ applicants WITH
11 DEVELOPMENTAL DISABILITIES shall be permitted even though a placement
12 evaluation has not been performed, if:

13 1. Space is available at the facility or in the program or service in
14 which placement is requested.

15 2. The department determines that the facility, program or service
16 will meet the needs of the client.

17 3. The client has an urgent need for short-term placement and care
18 which the facility, program or service provides and is otherwise eligible for
19 services pursuant to the requirements set forth in section 36-559.

20 O. Developmental disabilities programs and services may be provided to
21 a ~~developmentally disabled~~ person WITH DEVELOPMENTAL DISABILITIES admitted
22 pursuant to an emergency admission for a period not to exceed sixty
23 consecutive days following admission or until a placement evaluation is
24 performed, whichever period first occurs.

25 Sec. 127. Section 36-562, Arizona Revised Statutes, is amended to
26 read:

27 36-562. Schedule of financial contribution; review of payment
28 order

29 A. Money for the support of a person with a developmental disability
30 in a residential program operated or supported by the department, except for
31 children placed in special foster homes as described in section 36-558.01,
32 pursuant to sections 8-242, 8-514.01 and 8-845, shall be paid to the
33 department, and by it deposited, pursuant to sections 35-146 and 35-147, and
34 shall continue to be paid unless the person is terminated from such
35 residential program.

36 B. The financial contribution by the parent of a minor with a
37 developmental disability shall terminate on the eighteenth birthday of such
38 person. The financial contribution by parents on behalf of two or more
39 persons with developmental disabilities receiving developmental disabilities
40 programs or services shall not exceed the maximum amount such parents would
41 be required to pay if only one of such children were receiving the programs
42 or services.

43 C. The department shall by rule prescribe a fee schedule for
44 developmental disability residential programs provided directly or indirectly
45 by the department. The amount of annual liability of a person with a

1 developmental disability or parent for residential programs and services
2 provided shall be based on the percentage of gross income of the person with
3 a developmental disability or parent, as defined by section 61 of the United
4 States internal revenue code, except that part of the gross income of a
5 self-employed person that results from the operation of his business shall be
6 adjusted by the deductions allowed in the internal revenue code relating to
7 such income in computing adjusted gross income.

8 D. For a person with a developmental disability or a parent of a minor
9 with a developmental disability with an estate, trust or annuity, the amount
10 of annual liability for residential programs and services shall be based on
11 the actual cost of services until the individual meets the financial
12 eligibility requirements for federal social security supplemental income
13 benefits or the financial eligibility requirements for the Arizona long-term
14 care system. In billing a trust, the department is not limited to trust
15 income, but shall also bill the trust corpus.

16 E. The director shall review his order for payment for residential
17 care and services at least annually, and shall require the responsible person
18 to update the financial information provided annually or at any time on
19 request by the county board of supervisors or by the parent, guardian, or
20 other person making such payments. Section 36-563 applies to any order or
21 change in order for payment.

22 F. The responsible person shall furnish current financial information
23 to the director and to the appropriate county board of supervisors at the
24 times and on the forms and in the manner prescribed by the director, provided
25 that such information shall be held by the director and the county board of
26 supervisors to be strictly confidential, and it shall not be divulged except
27 in the instance where it is necessary in connection with legal action.

28 G. A financial contribution, which shall not exceed the actual cost of
29 the programs and services provided, may be required from the client or the
30 parent, spouse or estate of a person with a developmental disability for the
31 cost of any nonresidential developmental disability program or service
32 operated by or supported by the department. The department shall by rule
33 adopt a fee schedule for financial contributions. The amount of liability of
34 a client or the parent, spouse or estate of a client for nonresidential
35 services and programs or any combination of residential and nonresidential
36 services and programs shall not exceed the amount of the fee prescribed for
37 residential services in subsection C of this section. Counties are not
38 required to contribute to the cost of nonresidential services or programs
39 provided to clients.

40 H. The amount payable by the person with a developmental disability or
41 the person's parent or estate for residential services shall be fixed by the
42 director in accordance with the fee schedule prescribed in this section.

43 I. Money paid by a client, parent or guardian shall be paid to the
44 director and deposited, pursuant to sections 35-146 and 35-147, in the state
45 general fund.

1 J. The department shall provide monthly, or more frequent, billings,
2 as required, to all persons responsible for paying for ~~developmentally~~
3 ~~disabled~~ DEVELOPMENTAL DISABILITY residential or nonresidential services and
4 programs provided directly or indirectly by the department. The department
5 shall require all purchase of care providers to provide current lists of all
6 persons receiving residential or nonresidential services and programs in
7 facilities operated by such providers. The department shall forward reports
8 of delinquent billings for residential and nonresidential services and
9 programs provided by the department or by contractors to the attorney general
10 for collection.

11 K. The department shall notify each client and the parent or guardian
12 of such client for whom it has determined that contributions are required for
13 the cost of residential or nonresidential services and programs that it
14 reserves the right to terminate developmental disability residential or
15 nonresidential services and programs to a client for nonpayment of fees
16 required to be paid pursuant to this section.

17 L. Any person affected by an order of the director for payment of
18 costs of care may contest such order and request an administrative hearing
19 pursuant to section 36-563. Any person liable for the costs of care of a
20 client may appeal to the director, pursuant to section 36-563, for a
21 reduction in the amount of payment for such costs of care on the basis of
22 hardship.

23 M. Notwithstanding subsections C and H of this section, the department
24 may require clients who are receiving residential programs and who receive
25 income or benefits to contribute to the cost of their support and
26 maintenance, subject to the provisions of federal laws and regulations. Such
27 contributions shall not be subject to subsections A and I of this section.
28 The department shall adopt rules that determine the amount and means of
29 payment of such contributions, except that in no event shall the combined
30 contribution made on behalf of a client by a client or the client's parent or
31 estate exceed the actual cost of the residential programs provided. A
32 minimum of twelve per cent of the client's income or benefits shall be
33 retained for the client's personal use.

34 Sec. 128. Section 36-564, Arizona Revised Statutes, is amended to
35 read:

36 36-564. Guardianship

37 A. Guardians for clients acting under the provisions of this chapter
38 shall be appointed pursuant to title 14, chapter 5, articles 1, 2, 3 and 6.

39 B. The department shall request the appointment of a guardian for
40 minor clients receiving services under the provisions of this chapter if no
41 parent is willing and competent to act, and shall request the appointment of
42 a guardian for adult clients receiving services under the provisions of this
43 chapter if it appears that the ~~appointment~~ APPOINTMENT of a guardian would
44 be in the client's best interests in accordance with section 14-5304.

1 C. When no person or corporation is qualified and willing to act as
2 guardian for a client, the department shall notify the public fiduciary of
3 the county where the client is receiving services of the need for appointment
4 of a guardian.

5 D. Guardianship or conservatorship for ~~developmentally-disabled~~
6 persons WITH DEVELOPMENTAL DISABILITIES shall be utilized only as is
7 necessary to promote the well-being of the individual, be designed to
8 encourage the development of maximum self-reliance and independence in the
9 individual, and shall be ordered only to the extent necessitated by the
10 individual's actual mental, physical and adaptive limitations.

11 Sec. 129. Section 36-565, Arizona Revised Statutes, is amended to
12 read:

13 36-565. Periodic evaluations of persons with developmental
14 disabilities

15 A. Evaluations of the client's placement shall be made at six-month
16 intervals after a ~~developmentally-disabled~~ client WITH A DEVELOPMENTAL
17 DISABILITY has been enrolled in a developmental disabilities program or
18 services operated by or supported by the department. The department, upon
19 such evaluation, shall recommend to the responsible person any change in the
20 developmental disabilities program or service for the ~~developmentally~~
21 ~~disabled~~ person WITH A DEVELOPMENTAL DISABILITY, in accordance with the
22 results of such evaluations.

23 B. If an evaluation has been conducted, and it is determined that the
24 client is in a program or service no longer appropriate to his individual
25 needs or that he can be better treated and habilitated in another facility,
26 program or service, the department shall transfer the client to another
27 developmental disabilities program or service or terminate the client from
28 the developmental disabilities program or service pursuant to this chapter or
29 the department may recommend additional services for the client as reported
30 by the evaluation, and enroll the client in such additional services.

31 C. The client, parent and guardian shall be given thirty days' written
32 notice of the proposed transfer, termination or substantial change of
33 services under this chapter. The client, parent and guardian shall also be
34 informed in writing of the right to an administrative review pursuant to
35 section 36-563 for the purposes of contesting the proposed action. If an
36 administrative review is requested, no transfer, termination or substantial
37 change of services shall be made until the decision resulting from the review
38 is issued.

39 D. The department shall establish rules and regulations concerning the
40 standards of placement of clients from one program setting to another.

1 Sec. 130. Section 36-569, Arizona Revised Statutes, is amended to
2 read:

3 36-569. Prohibitions; violations; classification

4 A. Improper, abusive treatment or neglect of a ~~developmentally~~
5 ~~disabled~~ person WITH A DEVELOPMENTAL DISABILITY is prohibited. For the
6 purposes of this section:

7 1. "Abusive treatment" means:

8 (a) Physical abuse by inflicting pain or injury to a client. This
9 includes hitting, kicking, pinching, slapping, pulling hair or any sexual
10 abuses.

11 (b) Emotional abuse which includes ridiculing or demeaning a client,
12 making derogatory remarks to a client or cursing directed toward a client.

13 (c) Programmatic abuse which is the use of an aversive stimuli
14 technique that has not been approved as a part of such person's individual
15 program plan and which is not contained in the rules and regulations adopted
16 pursuant to subsection B of section 36-561. This includes isolation or
17 restraint of a client.

18 2. "Neglect" means:

19 (a) Intentional lack of attention to physical needs of clients such as
20 toileting, bathing, meals and safety.

21 (b) Intentional failure to report client health problems or changes in
22 health condition to immediate supervisor or nurse.

23 (c) Sleeping on duty or abandoning work station.

24 (d) Intentional failure to carry out a prescribed treatment plan for a
25 client.

26 B. A person who violates any provision of this section is guilty of a
27 class 2 misdemeanor.

28 Sec. 131. Section 36-572, Arizona Revised Statutes, is amended to
29 read:

30 36-572. Client developmental disability services trust fund;
31 donation account

32 A. A ~~developmentally disabled~~ client WITH A DEVELOPMENTAL DISABILITY
33 services trust fund is established.

34 B. The fund consists of DONATIONS AND the proceeds of the sale or
35 lease of the real property and buildings and improvements on the real
36 property used by the department of economic security for the Arizona training
37 program at Phoenix.

38 C. The proceeds of the sale or lease shall be deposited, pursuant to
39 sections 35-146 and 35-147, in the ~~developmentally disabled~~ client
40 DEVELOPMENTAL DISABILITY services trust fund. The ~~developmentally disabled~~
41 client DEVELOPMENTAL DISABILITY services trust fund is separate and apart
42 from all other funds.

43 D. Monies in the ~~developmentally disabled~~ client DEVELOPMENTAL
44 DISABILITY services trust fund may only be spent for client services provided
45 by the department of economic security and with the approval of the

1 developmental disabilities advisory council. Those clients on the
2 department's developmental disabilities waiting list shall also be included
3 in these services as far as possible.

4 E. Expenditures from the ~~developmentally disabled~~ client DEVELOPMENTAL
5 DISABILITY services trust fund for the previous year shall be reported to the
6 legislature in the course of the department of economic security's annual
7 budget request. The trust fund shall not be a factor to influence or
8 diminish the annual appropriation to the department for client services.

9 F. The state treasurer shall invest and divest monies in the fund as
10 provided by section 35-313, and monies earned from investment shall be
11 credited to the fund.

12 G. Interest or other income derived from the ~~developmentally disabled~~
13 client DEVELOPMENTAL DISABILITY services trust fund shall be used to enhance
14 the services presently available to ~~the developmentally disabled~~ PERSONS WITH
15 DEVELOPMENTAL DISABILITIES and to extend services to ~~developmentally disabled~~
16 persons WITH DEVELOPMENTAL DISABILITIES not presently served. Interest or
17 other income derived from the ~~developmentally disabled~~ client DEVELOPMENTAL
18 DISABILITY services trust fund shall not be used to supplant general fund
19 appropriations for developmental disabilities programs.

20 H. Donations directed to the ~~developmentally disabled~~ client
21 DEVELOPMENTAL DISABILITY services trust fund shall be deposited into the
22 ~~developmentally disabled~~ client DEVELOPMENTAL DISABILITY services trust fund
23 donation account, and shall be used to enhance the services presently
24 available to ~~the developmentally disabled~~ PERSONS WITH DEVELOPMENTAL
25 DISABILITIES and to extend services to ~~developmentally disabled~~ persons WITH
26 DEVELOPMENTAL DISABILITIES not presently served. Donations received shall
27 not be used to supplant general fund appropriations for developmental
28 disabilities programs. The developmental disabilities advisory council shall
29 oversee and approve expenditures of the donations, pursuant to sections
30 35-149 and 36-553, for expenditures from the ~~developmentally disabled~~ client
31 WITH DEVELOPMENTAL DISABILITIES services trust fund donation account.

32 Sec. 132. Section 36-595.01, Arizona Revised Statutes, is amended to
33 read:

34 36-595.01. Access to facilities

35 A group home shall allow the following to inspect the facility at
36 reasonable times:

- 37 1. Parents and guardians of facility residents.
- 38 2. Members of the developmental disabilities advisory council.
- 39 3. Members of recognized, established groups that advocate for ~~the~~
40 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

1 Sec. 133. Section 36-596.01, Arizona Revised Statutes, is amended to
2 read:

3 36-596.01. Liens; perfection; recording; assignment; notice of
4 lien; compromise

5 A. The department is entitled to a lien for the charges for hospital
6 or medical care and treatment paid by the department on behalf of
7 ~~a developmentally disabled~~ AN injured person WITH A DEVELOPMENTAL DISABILITY
8 on any and all claims of liability or indemnity for damages accruing to the
9 ~~developmentally disabled~~ person WITH A DEVELOPMENTAL DISABILITY on account of
10 injuries giving rise to the claims and which necessitated the hospital or
11 medical care and treatment.

12 B. The department shall perfect a lien by filing a verified written
13 statement in the office of the county recorder in the county in which the
14 injury occurred. This statement shall contain the following information:

15 1. The name and address of the injured person. The department shall
16 not include this information if department records indicate that the injuries
17 may be the result of a public offense as defined in section 13-105.

18 2. The name and address of the department.

19 3. The date of admission to the hospital and the date of discharge.

20 4. All dates on which medical or long-term care was provided.

21 5. The amount the department knows to be due for hospitalization,
22 medical care and treatment including the amount for which the department is
23 responsible.

24 6. The names and addresses of all persons, firms and corporations,
25 including insurance carriers, alleged to be liable for the injuries.

26 C. The department shall record this information within thirty days
27 after the injured person is discharged from a hospital or otherwise treated
28 for injuries.

29 D. Within five days of its recording, the department shall mail a copy
30 of the lien to each person, firm or corporation, including an insurance
31 carrier listed in the lien and the person, or the parent or guardian of the
32 person, receiving services pursuant to this article.

33 E. The recording of the lien is notice to all persons, firms and
34 corporations, including insurance carriers, that are liable for damages
35 whether or not specifically named in the lien.

36 F. The department may assign the lien in whole or in part to a
37 provider that is responsible for hospital, medical or long-term care
38 services.

39 G. The director shall establish by rule procedures for a provider to
40 notify the department concerning the delivery of hospital, medical or
41 long-term care services to a person who may have claims for damages.

42 H. The department may amend a lien to reflect current charges, except
43 the department may not amend a lien after the time of final settlement of a
44 claim pursuant to subsection A if the department is given notice of an

1 impending settlement at least five days excluding Saturdays and holidays
2 before the final settlement.

3 I. A public entity shall compromise a claim it has pursuant to section
4 11-291, 12-962, 36-596, 36-2903, 36-2935, 36-2956 or this section if, after
5 considering the following factors the public entity determines that the
6 compromise provides a settlement of the claim that is fair and equitable:

7 1. The nature and extent of the person's injury or illness.

8 2. The sufficiency of insurance or other sources of indemnity
9 available to the person.

10 3. Any other factor relevant for a fair and equitable settlement under
11 the circumstances of a particular case.

12 Sec. 134. Section 36-596.56, Arizona Revised Statutes, is amended to
13 read:

14 36-596.56. Eligibility; program plans; burial arrangements

15 A. A person who is eligible for services pursuant to section 36-559 is
16 also eligible to receive services under this article if that person is
17 recommended to receive services under the individual program plan. A person
18 shall also meet any applicable eligibility requirements or guidelines in
19 order to receive family support services funded in whole or in part with
20 federal monies.

21 B. The division shall review the plan to determine if the person is
22 eligible for services and if monies are available. This review shall take
23 place at the district level.

24 C. To be eligible for services, a family shall:

25 1. Express and demonstrate a willingness to keep the ~~disabled~~ family
26 member WITH A DISABILITY at home or in the community.

27 2. Agree to cooperate with the providers of services in developing,
28 implementing and evaluating the family support services that are part of the
29 individual program plan.

30 3. Demonstrate a need for services.

31 4. Undergo an evaluation by the division of the family's financial
32 resources, including monies from other state and federal programs that are
33 available to the family.

34 5. Comply with other factors the division determines are necessary for
35 eligibility.

36 D. An annual individual program plan team shall determine what
37 services shall be provided to an individual with a developmental disability
38 or a family on behalf of a family member with a developmental disability and
39 which shall be specified in the plan itself. The case manager shall
40 coordinate the plan. The plan shall include the following:

41 1. A finding of the family's need for services and an indication of
42 the family's strengths and resources that the plan may supplement or support
43 to meet the family's needs.

44 2. Notice of the specific programs, subsidies and services for which
45 the family is eligible.

1 3. A clear explanation of the way in which the programs, subsidies and
2 services shall be provided.

3 4. A statement of the specific goals of the plan and the methods to be
4 used to achieve these goals.

5 5. A timetable for achieving goals.

6 6. Notice of the annual determination of continued eligibility and of
7 reportable events that will trigger an earlier eligibility determination.

8 E. To ensure continued eligibility, a family shall promptly report any
9 changes in the family, the need for services, income and all other
10 circumstances that relate to eligibility.

11 F. The individual program plan team shall annually review the
12 eligibility of each family or individual in the family support program. The
13 plan shall be distributed to the team not more than twenty days after the
14 annual review meeting. This review shall include:

15 1. An eligibility review of the needs of the family or the individual.

16 2. A report prepared by the family and the case manager on whether the
17 needs and goals of the individual program plan are being met.

18 3. A report of the circumstances that might trigger an earlier review
19 of eligibility.

20 4. A review of the family's financial resources.

21 G. A family may request a review described in subsection F of this
22 section at any time.

23 H. The client's individual program plan shall include provisions
24 relating to the client's burial arrangements, including a choice of cremation
25 or burial and instructions regarding religious services, if any. Monies set
26 aside for this purpose are not excluded from the income eligibility
27 requirements of section 36-2934 and title XIX of the social security act.
28 Monies set aside for this purpose shall be excluded or counted as a resource
29 for eligibility purposes in accordance with section 1613 of the social
30 security act. The costs of burial under this subsection are not the
31 financial responsibility of this state.

32 Sec. 135. Section 36-671, Arizona Revised Statutes, is amended to
33 read:

34 36-671. Definitions

35 In this article, unless the context otherwise requires:

36 1. "Department" means the department of health services.

37 2. "Director" means the director of the department of health services.

38 3. "Documentary proof" means written evidence that a pupil has been
39 immunized or has laboratory evidence of immunity which conforms with the
40 standards promulgated pursuant to section 15-872.

41 4. "Dose" means the number in a series of immunizations which may be
42 prescribed pursuant to section 36-672.

43 5. "Health agency" means a local health department or similar
44 governmental agency established pursuant to the laws of another state or
45 country and its officers and employees.

1 6. "Immunization" means the process of inoculation with a specific
2 antigen to promote antibody formation in the body.

3 7. "Immunized" means the required initial immunization and boosters or
4 reimmunization prescribed pursuant to section 36-672.

5 8. "Laboratory evidence of immunity" means written evidence of
6 serologic confirmation of the presence of specific antibodies against an
7 immunization-preventable disease which is signed by a physician or an
8 authorized representative of a health agency.

9 9. "Local health department" means local health departments
10 established pursuant to chapter 1, article 4 of this title.

11 10. "Physician" means a person licensed pursuant to title 32, chapter
12 13, 17 or 29 or a person licensed to practice allopathic or osteopathic
13 medicine under the laws of another state or country.

14 11. "Pupil" means a person who is eligible to receive instruction at a
15 school and includes pre-kindergarten age children receiving either services
16 for ~~the handicapped~~ CHILDREN WITH DISABILITIES or day care on a school campus
17 otherwise exempt from day care rules pursuant to section 36-884.

18 12. "School" means a public, private or parochial school that offers
19 instruction at any level or grade through twelfth grade, except for day care
20 facilities regulated pursuant to chapter 7.1 of this title.

21 13. "School administrator" means the principal or person having general
22 daily control and supervision of the school or that person's designee.

23 Sec. 136. Section 36-695, Arizona Revised Statutes, is amended to
24 read:

25 36-695. Acceptance of congressional act relating to the
26 supplemental security income to children with
27 disabilities program

28 A. This state accepts the conditions of title XVI of the social
29 security act, section 1615, enacted October 20, 1976 (P.L. 94-566; 90 Stat.
30 2683, 42 U.S.C. sec. 138 2d).

31 B. The department of health services is designated as the state agency
32 to cooperate with the department of health and human resources for the
33 administration of the supplemental security income to ~~disabled children's~~
34 CHILDREN WITH DISABILITIES program, as authorized by section 1615 of title
35 XVI of the social security act.

36 Sec. 137. Section 36-697, Arizona Revised Statutes, is amended to
37 read:

38 36-697. Health start program; administration

39 A. Subject to appropriated monies the health start program is
40 established in the department of health services. The program shall serve
41 pregnant women, children and their families. The program shall be statewide,
42 based in identified neighborhoods and delivered by lay health workers through
43 prescheduled home visits or prescheduled group classes that begin before the
44 child's birth or during the postnatal period and that may continue until the
45 child is two years of age. The department shall establish the criteria to be

1 used in evaluating communities and neighborhoods to be served by competing
2 program proposals. The evaluation criteria shall include at a minimum a high
3 incidence of the following:

- 4 1. Inadequate prenatal care.
- 5 2. Inadequate infant health care.
- 6 3. Infants who at birth weigh less than one thousand five hundred
7 grams and who require more than seventy-two hours of neonatal intensive care.
- 8 4. Inadequate early childhood immunizations.

9 B. The department shall establish at a minimum the following goals for
10 the program:

11 1. Reduce the incidence of infants who at birth weigh less than one
12 thousand five hundred grams and who require more than seventy-two hours of
13 neonatal intensive care.

14 2. Reduce the incidence of children affected by childhood diseases.

15 3. Increase the number of children receiving age appropriate
16 immunizations by two years of age.

17 4. Increase awareness by educating families:

18 (a) On the importance of good nutritional habits to improve the
19 overall health of their children.

20 (b) On the need for developmental assessments to promote the early
21 identification of learning disabilities, physical ~~handicaps~~ DISABILITIES or
22 behavioral health needs.

23 (c) Of the benefits of preventative health care and the need for
24 screening examinations such as hearing and vision.

25 5. Increase prenatal care services to pregnant women.

26 C. The department shall:

27 1. Develop program criteria and staff training requirements.

28 2. Contract with local private and public agencies to recruit and
29 train lay health workers.

30 3. Enter into interagency agreements to maximize funding for the
31 program.

32 4. Distribute the Arizona children and families resource directory
33 compiled under section 36-698 to hospitals for distribution to the families
34 of any newly born child in order to help them answer questions concerning
35 early childhood development.

36 5. Link program participants to programs that reduce illiteracy,
37 reduce dependency on welfare, encourage employment, encourage
38 self-sufficiency and encourage community involvement by program participants
39 through community service, employment or participation in religious or social
40 organizations.

41 6. Develop employment guidelines for program personnel that include
42 background checks for those personnel who will have direct contact with
43 pregnant women or families or who will have access to program participant
44 records.

45 D. The program, through lay health workers, shall:

- 1 1. Identify, screen and enroll pregnant women in the lay health
2 worker's neighborhood or community.
- 3 2. Inform program participants of how to receive prenatal care
4 services.
- 5 3. Assist program participants to access appropriate prenatal care.
- 6 4. Educate program participants on appropriate prenatal and neonatal
7 care, preventative health care and child wellness, including appropriate
8 nutritional habits to improve the overall health of their children.
- 9 5. Assist and encourage program participants to provide age
10 appropriate immunizations so that their children are fully immunized by two
11 years of age.
- 12 6. Provide participants with a list of local private, both nonprofit
13 and for profit, providers and governmental agencies providing the services
14 included in paragraphs 1 through 5 of this subsection.
- 15 E. Program services shall not be provided under this section unless:
16 1. Participation in the program is initiated in response to a request
17 by A potential program participant.
- 18 2. A verbal explanation of the program is provided to program
19 participants including an explanation of the rights and responsibilities of
20 both the participant and the program provider.
- 21 3. The written, informed consent of the program participants is
22 received. The consent form shall include at least a clear description of the
23 program including the activities and information to be provided by the
24 program during prescheduled home visits or prescheduled group classes, the
25 number of expected home visits and prescheduled group classes, the right of
26 program participants to terminate participation in the program at any time,
27 any responsibilities of the program participants, a statement that a record
28 will be made and maintained of the visits and sessions and may be available
29 in future court proceedings, and any other information that is necessary to
30 convey to the program participants a clear understanding of the program.
- 31 4. If the contact occurs at the primary residence of the potential
32 program participant, program personnel do not enter the residence during the
33 initial contact without that person's permission.
- 34 F. If the potential program participant is a minor living with the
35 minor's parent or guardian, home visits shall not be provided under this
36 section without the additional written consent of the parent or guardian.
- 37 G. Program participants have access to the records on their own family
38 at all times and have the right to correct any inaccurate information
39 included in the records. Records, except for nonidentifiable demographic
40 characteristics, shall be destroyed five years after the participant's last
41 involvement in the program. Program records are not available to other
42 government agencies or programs in the department without specific prior
43 written consent by the program participant for the release of information in
44 the program participant's records.

1 Sec. 138. Section 36-899.01, Arizona Revised Statutes, is amended to
2 read:

3 36-899.01. Program for all school children; administration

4 A. A program of hearing evaluation services is established by the
5 department. Such services shall be administered to all children as early as
6 possible, but in no event later than the first year of attendance in any
7 public or private education program, or residential facility for ~~handicapped~~
8 children **WITH DISABILITIES**, and thereafter as circumstances permit until the
9 child has attained the age of sixteen years or is no longer enrolled in a
10 public or private education program.

11 B. The program of hearing evaluation services for children in a public
12 education program shall be administered by the department with the aid of the
13 department of education.

14 Sec. 139. Section 36-1409, Arizona Revised Statutes, is amended to
15 read:

16 36-1409. Rentals and tenant selection

17 A. In the operation or management of housing projects a public housing
18 authority, city, town or county shall at all times observe the following
19 duties with respect to rentals and tenant selection:

20 1. Unless the commissioners have determined that a mixed income
21 project is in the community's best interests, the public housing authority,
22 city, town or county may rent or lease the dwelling accommodations only to
23 persons of low income and at rentals within the financial reach of such
24 persons.

25 2. It may rent or lease to a tenant dwelling accommodations consisting
26 of the number of rooms, but no greater number, which it deems necessary to
27 provide safe and sanitary accommodations to the proposed occupants, without
28 overcrowding.

29 3. It shall fix income limits for occupancy and rents after taking
30 into consideration the family size, composition, age, ~~handicaps~~ **DISABILITY**
31 and other factors which might affect the rent-paying ability of the person
32 and the economic factors which affect the financial stability and solvency of
33 the project.

34 B. This section and section 36-1408 do not limit the power of a public
35 housing authority, city, town or county to vest in an obligee the right, in
36 the event of a default by the city, town or county, to take possession of and
37 operate a housing project or to cause the appointment of a receiver, free
38 from all the restrictions imposed by this section or section 36-1408.

39 Sec. 140. Section 36-1409.01, Arizona Revised Statutes, is amended to
40 read:

41 36-1409.01. Pets for elderly tenants and tenants with
42 disabilities; exceptions; conditions; appeal
43 procedures; definitions

44 A. Notwithstanding any other statute, a public agency which owns,
45 operates, manages or contracts for rental housing accommodations shall not

1 prohibit elderly TENANTS or ~~handicapped~~ tenants WITH DISABILITIES from
2 keeping pets in their dwelling units.

3 B. This section does not prevent a public agency which owns, operates,
4 manages or contracts for rental housing accommodations from requiring the
5 removal of any pet which by its conduct or condition constitutes a threat or
6 nuisance to other occupants of the housing project. A person shall not keep
7 a pet in violation of health statutes or under circumstances constituting
8 cruelty to animals ~~as defined in~~ PURSUANT TO section 13-2910.

9 C. A public agency which owns, operates, manages or contracts for
10 rental housing accommodations shall not impose any requirement which makes
11 the keeping of a pet by an elderly TENANT or ~~handicapped~~ tenant WITH A
12 DISABILITY financially prohibitive and shall not in any case require a
13 deposit of more than one month's rent for the keeping of a pet. This section
14 does not relieve an elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY
15 from any liability otherwise imposed by law for damages caused by the
16 tenant's pet.

17 D. A public agency which owns, operates, manages or contracts for
18 rental housing accommodations is not liable for personal or property damage
19 caused by a pet kept in the housing project by an elderly TENANT or
20 ~~handicapped~~ tenant WITH A DISABILITY unless it is proved that its agents or
21 employees had prior actual knowledge of a dangerous propensity of the pet or
22 a dangerous condition created by the pet and did not take timely and
23 reasonable measures to mitigate or protect against the perceived threat.

24 E. A public agency which owns, operates, manages or contracts for
25 rental housing accommodations may adopt reasonable regulations relating to
26 pets including number of pets and neutering when appropriate and may impose
27 conditions for the tenancy of elderly TENANTS or ~~handicapped~~ tenants WITH
28 DISABILITIES with pets different from those applicable to such tenants
29 without pets, if these conditions are reasonably related to the presence of
30 the pets.

31 F. An elderly TENANT or ~~handicapped~~ tenant WITH A DISABILITY or an
32 elderly APPLICANT or ~~handicapped~~ applicant WITH A DISABILITY for tenancy may
33 appeal from the adoption or application of any regulation or condition
34 adopted pursuant to this section in accordance with grievance procedures of
35 the particular housing authority which owns, operates, manages or contracts
36 for the rental housing accommodations established to resolve tenant
37 disputes. A copy of the grievance procedures shall be provided to an elderly
38 TENANT or ~~handicapped~~ tenant WITH A DISABILITY or AN elderly APPLICANT or
39 ~~handicapped~~ applicant WITH A DISABILITY for tenancy who keeps or wishes to
40 keep a pet.

41 G. For THE purposes of this section:

42 1. "Elderly" means a person who is at least sixty years of age or as
43 otherwise defined by a specific program.

44 2. "~~Handicapped~~ PERSON WITH A DISABILITY" means ~~having~~ A PERSON WHO
45 HAS a physical impairment which substantially limits one or more of the

1 person's major life activities or ~~having~~ HAS a record of such an impairment
2 or ~~being~~ HAS BEEN regarded as having such an impairment, as verified by a
3 signed statement of a physician licensed pursuant to title 32, chapter 13
4 or 17.

5 3. "Pet" means a domesticated dog, cat, bird, fish, mouse, gerbil,
6 hamster, turtle, guinea pig or chinchilla.

7 4. "Tenant" means a person who rents or resides in a dwelling unit in
8 rental housing accommodations owned, operated, managed or contracted for by a
9 public agency.

10 Sec. 141. Section 36-2201, Arizona Revised Statutes, is amended to
11 read:

12 36-2201. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Administrative medical direction" means supervision of emergency
15 medical care technicians by a base hospital medical director, administrative
16 medical director or basic life support medical director. For the purposes of
17 this paragraph, "administrative medical director" means a physician who is
18 licensed pursuant to title 32, chapter 13 or 17 and who provides direction
19 within the emergency medical services and trauma system.

20 2. "Advanced emergency medical technician" means a person who has been
21 trained in an advanced emergency medical technician program certified by the
22 director or in an equivalent training program and who is certified by the
23 director to render services pursuant to section 36-2205.

24 3. "Advanced life support" means the level of assessment and care
25 identified in the scope of practice approved by the director for the advanced
26 emergency medical technician, emergency medical technician I-99 and
27 paramedic.

28 4. "Advanced life support base hospital" means a health care
29 institution that offers general medical and surgical services, that is
30 certified by the director as an advanced life support base hospital and that
31 is affiliated by written agreement with a licensed ambulance service,
32 municipal rescue service, fire department, fire district or health services
33 district for medical direction, evaluation and control of emergency medical
34 care technicians.

35 5. "Ambulance" means any publicly or privately owned surface, water or
36 air vehicle, including a helicopter, that contains a stretcher and necessary
37 medical equipment and supplies pursuant to section 36-2202 and that is
38 especially designed and constructed or modified and equipped to be used,
39 maintained or operated primarily for the transportation of individuals who
40 are sick, injured or wounded or who require medical monitoring or aid.
41 Ambulance does not include a surface vehicle that is owned and operated by a
42 private sole proprietor, partnership, private corporation or municipal
43 corporation for the emergency transportation and in-transit care of its
44 employees or a vehicle that is operated to accommodate an incapacitated ~~or~~
45 ~~disabled~~ person OR PERSON WITH A DISABILITY who does not require medical

1 monitoring, care or treatment during transport and that is not advertised as
2 having medical equipment and supplies or ambulance attendants.

3 6. "Ambulance attendant" means any of the following:

4 (a) An emergency medical technician, an advanced emergency medical
5 technician, an emergency medical technician I-99 or a paramedic whose primary
6 responsibility is the care of patients in an ambulance and who meets the
7 standards and criteria adopted pursuant to section 36-2204.

8 (b) An emergency medical responder who is employed by an ambulance
9 service operating under section 36-2202 and whose primary responsibility is
10 the driving of an ambulance.

11 (c) A physician who is licensed pursuant to title 32, chapter 13
12 or 17.

13 (d) A professional nurse who is licensed pursuant to title 32, chapter
14 15 and who meets the state board of nursing criteria to care for patients in
15 the prehospital care system.

16 (e) A professional nurse who is licensed pursuant to title 32, chapter
17 15 and whose primary responsibility is the care of patients in an ambulance
18 during an interfacility transport.

19 7. "Ambulance service" means a person who owns and operates one or
20 more ambulances.

21 8. "Basic life support" means the level of assessment and care
22 identified in the scope of practice approved by the director for the
23 emergency medical responder and emergency medical technician.

24 9. "Bureau" means the bureau of emergency medical services and trauma
25 system in the department.

26 10. "Centralized medical direction communications center" means a
27 facility that is housed within a hospital, medical center or trauma center or
28 a freestanding communication center that meets the following criteria:

29 (a) Has the ability to communicate with ambulance services and
30 emergency medical services providers rendering patient care outside of the
31 hospital setting via radio and telephone.

32 (b) Is staffed twenty-four hours a day seven days a week by at least a
33 physician licensed pursuant to title 32, chapter 13 or 17.

34 11. "Certificate of necessity" means a certificate that is issued to an
35 ambulance service by the department and that describes the following:

36 (a) Service area.

37 (b) Level of service.

38 (c) Type of service.

39 (d) Hours of operation.

40 (e) Effective date.

41 (f) Expiration date.

42 (g) Legal name and address of the ambulance service.

43 (h) Any limiting or special provisions the director prescribes.

44 12. "Council" means the emergency medical services council.

45 13. "Department" means the department of health services.

- 1 14. "Director" means the director of the department of health services.
2 15. "Emergency medical care technician" means an individual who has
3 been certified by the department as an emergency medical technician, an
4 advanced emergency medical technician, an emergency medical technician I-99
5 or a paramedic.
6 16. "Emergency medical responder" as an ambulance attendant means a
7 person who has been trained in an emergency medical responder program
8 certified by the director or in an equivalent training program and who is
9 certified by the director to render services pursuant to section 36-2205.
10 17. "Emergency medical services" means those services required
11 following an accident or an emergency medical situation:
12 (a) For on-site emergency medical care.
13 (b) For the transportation of the sick or injured by a licensed ground
14 or air ambulance.
15 (c) In the use of emergency communications media.
16 (d) In the use of emergency receiving facilities.
17 (e) In administering initial care and preliminary treatment procedures
18 by emergency medical care technicians.
19 18. "Emergency medical services provider" means any governmental
20 entity, quasi-governmental entity or corporation whether public or private
21 that renders emergency medical services in this state.
22 19. "Emergency medical technician" means a person who has been trained
23 in an emergency medical technician program certified by the director or in an
24 equivalent training program and who is certified by the director as qualified
25 to render services pursuant to section 36-2205.
26 20. "Emergency receiving facility" means a licensed health care
27 institution that offers emergency medical services, is staffed twenty-four
28 hours a day and has a physician on call.
29 21. "Fit and proper" means that the director determines that an
30 applicant for a certificate of necessity or a certificate holder has the
31 expertise, integrity, fiscal competence and resources to provide ambulance
32 service in the service area.
33 22. "Medical record" means any patient record, including clinical
34 records, prehospital care records, medical reports, laboratory reports and
35 statements, any file, film, record or report or oral statements relating to
36 diagnostic findings, treatment or outcome of patients, whether written,
37 electronic or recorded, and any information from which a patient or the
38 patient's family might be identified.
39 23. "National certification organization" means a national organization
40 that tests and certifies the ability of an emergency medical care technician
41 and whose tests are based on national education standards.
42 24. "National education standards" means the emergency medical services
43 education standards of the United States department of transportation or
44 other similar emergency medical services education standards developed by
45 that department or its successor agency.

1 3. The infant is born alive by natural or artificial means.

2 B. A person shall not deprive an infant of necessary lifesaving
3 medical treatment or surgical care.

4 C. This section shall not be construed to prevent an infant's parent,
5 parents or guardian from refusing to give consent to medical treatment or
6 surgical care which is not medically necessary, including care or treatment
7 which either:

8 1. Is not necessary to save the life of the infant.

9 2. Has a potential risk to the infant's life or health that outweighs
10 the potential benefit to the infant of the treatment or care.

11 3. Is futile treatment or treatment that will do no more than
12 temporarily prolong the act of dying when death is imminent.

13 D. In determining whether any of the possible medical treatments will
14 be medically necessary for an infant, reasonable medical judgments in
15 selecting among alternative courses of treatment shall be respected.

16 E. In this article, "infant" means a child less than one year of age.
17 Sec. 143. Section 36-2283, Arizona Revised Statutes, is amended to
18 read:

19 36-2283. Certain information to parents required

20 Any health care institution with a perinatal, obstetrical or pediatric
21 unit shall make available to each parent of any newborn child born with an
22 identifiable ~~handicap~~ DISABILITY information it receives from public or
23 private agencies regarding agencies which are available to provide the parent
24 with assistance, information or support pertaining to the care of the child
25 and the manner in which the agencies may be contacted.

26 Sec. 144. Section 36-2902.01, Arizona Revised Statutes, is amended to
27 read:

28 36-2902.01. Advisory council on Indian health care; membership;
29 compensation; meetings

30 A. The advisory council on Indian health care is established
31 consisting of the following members:

32 1. Twenty members appointed by the governor. Each Arizona Indian
33 tribe may submit recommendations to the governor. There shall be no more
34 than one representative from each Arizona Indian tribe. Each member shall
35 represent an Arizona Indian tribe and shall be nominated by his tribal
36 governing body. The governor shall make appointments from the following
37 areas:

38 (a) Five tribal members who represent health care agencies. At least
39 one of the appointees shall have experience in serving elderly ~~or physically~~
40 ~~disabled~~ clients OR CLIENTS WITH PHYSICAL DISABILITIES.

41 (b) Five tribal members who represent social service agencies. At
42 least one of the appointees shall have experience in serving elderly ~~or~~
43 ~~physically disabled~~ clients OR CLIENTS WITH PHYSICAL DISABILITIES.

44 (c) Five tribal members who represent agencies serving the
45 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES.

1 (d) Two tribal members who represent tribal organizations or
2 metropolitan Indian centers.

3 (e) Three tribal members serving at large.

4 2. One representative from the Arizona health care cost containment
5 system appointed by the director.

6 3. One representative from the department of health services appointed
7 by the director OF THE DEPARTMENT OF HEALTH SERVICES.

8 4. One representative from the department of economic security
9 appointed by the director OF THE DEPARTMENT OF ECONOMIC SECURITY.

10 B. Federal representatives of the ~~health care financing administration~~
11 CENTERS FOR MEDICARE AND MEDICAID SERVICES, the Indian health service, the
12 bureau of Indian affairs, the ~~veterans administration~~ UNITED STATES
13 DEPARTMENT OF VETERANS AFFAIRS and the executive office of management and
14 budget shall be invited by the governor to serve as technical advisors to the
15 council.

16 C. Except as provided in subsection A, paragraphs 2, 3 and 4, no
17 member of the council may be an employee of this state.

18 D. Members of the council are not eligible to receive compensation,
19 but members appointed pursuant to subsection A, paragraphs 1 and 2 are
20 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
21 article 2.

22 E. Members appointed pursuant to subsection A, paragraph 1 shall serve
23 staggered two year terms. A tribal member who is absent without notice from
24 three consecutive meetings vacates his membership. The governor shall
25 appoint a new member within thirty days from the third unexcused
26 absence. Vacancies occurring on the council shall be filled for the balance
27 of the term.

28 F. The council shall elect a chairman and vice-chairman from its
29 membership. The chairman and vice-chairman shall be members of a federally
30 recognized Arizona Indian tribe. The election shall be held the first Monday
31 in October of each year. The term of office shall be one year. The council
32 shall meet at least six times a year and may meet more often at the call of
33 the chairman or vice-chairman. A majority of the council constitutes a
34 quorum.

35 G. A member serving pursuant to subsection B is not eligible to vote
36 and is not a member for purposes of determining whether a quorum is present.

37 H. Meetings are open to the public and minutes of each meeting are
38 open for public inspection.

39 Sec. 145. Section 36-2911, Arizona Revised Statutes, is amended to
40 read:

41 36-2911. Payment of monthly premiums

42 A. The administration shall pay medicare part B premiums pursuant to
43 federal law for and on behalf of a member who is eligible pursuant to section
44 36-2901, paragraph 6, subdivision (a), item (i) or (ii) and who is enrolled
45 pursuant to this article and article 2 of this chapter.

1 B. The administration shall pay the medicare part A hospital premium
2 for each qualified ~~disabled~~ PERSON WITH A DISABILITY and working individual
3 who is determined eligible pursuant to section 1905(s) of title XIX of the
4 social security act. The administration shall determine the eligibility of
5 all persons who are qualified ~~disabled~~ WITH A DISABILITY and working
6 individuals in accordance with section 6408(d) of the omnibus budget
7 reconciliation act of 1989. The administration, in accordance with federal
8 law, may require certain eligible qualified ~~disabled~~ PERSONS WITH A
9 DISABILITY and working individuals to contribute to the cost of the monthly
10 premium.

11 Sec. 146. Section 36-2933, Arizona Revised Statutes, is amended to
12 read:

13 36-2933. Eligibility determination; application; enrollment

14 A. A person who is seeking services pursuant to this article shall
15 submit an application for eligibility for the system to the administration
16 which shall review the completed application to determine if the person meets
17 the residency and if applicable, the alienage requirements adopted pursuant
18 to section 36-2932, subsection K and the eligibility criteria prescribed in
19 section 36-2934.

20 B. The administration shall conduct a preadmission screening pursuant
21 to section 36-2936 to determine if the applicant is eligible for services.

22 C. A person who is a resident of this state and, if not a citizen of
23 the United States, who meets the alienage requirements of federal law and who
24 meets the eligibility criteria prescribed in section 36-2934 and who is
25 determined eligible for services pursuant to section 36-2936 shall be
26 enrolled in the system, unless such person is enrolled in the Arizona health
27 care cost containment system pursuant to article 1 of this chapter and only
28 needs convalescent care as defined by the director by rule.

29 D. On enrollment in the system, the administration shall conduct
30 post-eligibility treatment of income and resources of the member as
31 prescribed in section 36-2932, subsection L.

32 E. The director may enter into an interagency agreement with the
33 department under which the department may:

34 1. Determine whether all ~~developmentally-disabled~~ persons WITH
35 DEVELOPMENTAL DISABILITIES as defined in section 36-551 who apply to the
36 system meet the eligibility criteria prescribed in subsection A of this
37 section.

38 2. Conduct preadmission screening pursuant to subsection B of this
39 section on ~~developmentally-disabled~~ persons WITH DEVELOPMENTAL DISABILITIES
40 as defined in section 36-551 to determine if the applicant is eligible for
41 services.

42 3. Conduct post-eligibility treatment of income and resources pursuant
43 to subsection D of this section for a member who has a developmental
44 disability as defined in section 36-551.

1 Sec. 147. Section 36-2934, Arizona Revised Statutes, is amended to
2 read:

3 36-2934. Eligibility criteria; qualifications for coverage;
4 liquidation of assets

5 A. A person meets the eligibility criteria of this article and the
6 section 1115 waiver if the person satisfies one of the following:

7 1. Is eligible pursuant to section 36-2901, paragraph 6, subdivision
8 (a), item (i) or (ii) on the date of application for medical assistance under
9 this article and meets the resource requirements prescribed by federal law.

10 2. Would be eligible for supplemental security income for the aged,
11 blind or ~~disabled or aid to families with dependent children~~ PERSONS WITH
12 DISABILITIES OR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES but is not receiving
13 cash payment.

14 3. Would be eligible for supplemental security income for the aged,
15 blind or ~~disabled~~ PERSONS WITH DISABILITIES or under section 1931(b) of the
16 social security act except for the person's institutional status.

17 4. Is in a medical institution for a period of not less than thirty
18 consecutive days and except for the person's income the person would be
19 eligible for supplemental security income for the aged, blind or ~~disabled or~~
20 ~~aid to families with dependent children~~ PERSONS WITH DISABILITIES OR
21 TEMPORARY ASSISTANCE FOR NEEDY FAMILIES and the person's gross income before
22 deductions does not exceed three hundred per cent of the supplemental
23 security income benefit rate established by section 1611(b)(1) of the social
24 security act.

25 5. Would be eligible for medical assistance under the state plan if
26 the person was institutionalized and a determination has been made that
27 except for the provision of home and community based services the person
28 would require the level of care provided in a hospital, skilled nursing
29 facility or intermediate care facility.

30 B. In addition to meeting the requirements of subsection A of this
31 section, a person may not have, within the time specified in federal law
32 before filing an application for eligibility pursuant to section 36-2933,
33 transferred or assigned for less than fair consideration assets as defined by
34 federal law for the purpose of meeting the eligibility criteria pursuant to
35 this section. If a transfer or assignment occurred, the administration may
36 deny eligibility for a period in accordance with federal law. Transfers that
37 are permitted under federal law shall not serve to disqualify a person from
38 eligibility for services pursuant to this article. This subsection also
39 applies to persons who are eligible pursuant to section 36-2901, paragraph
40 6, subdivision (a) and who receive medical assistance under article 1 of this
41 chapter.

42 C. In addition to meeting the requirements of subsection A, paragraph
43 3 of this section, the director may require that a person's net income shall
44 not exceed a state income standard established by the director, which is less

1 than three hundred per cent of the supplemental security income benefit rate
2 established by section 1611 of the social security act.

3 D. Notwithstanding any other provision of this section, a person shall
4 not receive services under this article who is not eligible pursuant to title
5 XIX of the social security act or the section 1115 waiver.

6 E. The administration shall periodically review the eligibility
7 pursuant to this section of each member in accordance with federal law.

8 F. The administration shall determine a person's eligibility pursuant
9 to this section within the time periods required or allowed by federal law.

10 G. An applicant shall provide the administration with a statement in
11 accordance with federal law containing at least the following information:

12 1. The amount of personal and real property in which the applicant has
13 an interest.

14 2. All income that the applicant received during the period
15 immediately before application.

16 3. Any assets as defined by federal law assigned or transferred by the
17 applicant within the time prescribed by federal law immediately before filing
18 the application for eligibility pursuant to section 36-2933.

19 4. Any further information the director by rule requires to determine
20 eligibility.

21 H. A designated representative, as defined pursuant to rules adopted
22 by the director, or a public employee who prepares and signs, or assists in
23 preparing, an application for benefits under this article on behalf of an
24 applicant is not civilly liable for good faith acts and omissions.

25 Sec. 148. Section 36-2939, Arizona Revised Statutes, is amended to
26 read:

27 36-2939. Long-term care system services

28 A. The following services shall be provided by the program contractors
29 to members determined to need institutional services pursuant to this
30 article:

31 1. Nursing facility services other than services in an institution for
32 tuberculosis or mental disease.

33 2. Notwithstanding any other law, behavioral health services if these
34 services are not duplicative of long-term care services provided as of
35 January 30, 1993 under this subsection and are authorized by the program
36 contractor through the long-term care case management system. If the
37 administration is the program contractor, the administration may authorize
38 these services.

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

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

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

44 B. In addition to the services prescribed in subsection A of this
45 section, the department, as a program contractor, shall provide the following

1 services if appropriate to members who are defined as ~~developmentally~~
2 ~~disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES pursuant to section 36-551
3 and are determined to need institutional services pursuant to this article:

4 1. Intermediate care facility services for a member who has a
5 developmental disability as defined in section 36-551. For purposes of this
6 article, such a facility shall meet all federally approved standards and may
7 only include the Arizona training program facilities, a state owned and
8 operated service center, state owned or operated community residential
9 settings or existing licensed facilities operated by this state or under
10 contract with the department on or before July 1, 1988.

11 2. Home and community based services that may be provided in a
12 member's home or an alternative residential setting as prescribed in section
13 36-591 or other behavioral health alternative residential facilities licensed
14 by the department of health services and approved by the director of the
15 Arizona health care cost containment system administration and that may
16 include:

17 (a) Home health, which means the provision of nursing services or home
18 health aide services or medical supplies, equipment and appliances, which are
19 provided on a part-time or intermittent basis by a licensed home health
20 agency within a member's residence based on a physician's orders and in
21 accordance with federal law. Physical therapy, occupational therapy, or
22 speech and audiology services provided by a home health agency may be
23 provided in accordance with federal law. Home health agencies shall comply
24 with federal bonding requirements in a manner prescribed by the
25 administration.

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

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

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

35 (e) ~~Developmentally disabled~~ Day care FOR PERSONS WITH DISABILITIES,
36 which means a service that provides planned care supervision and activities,
37 personal care, activities of daily living skills training and habilitation
38 services in a group setting during a portion of a continuous twenty-four hour
39 period.

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

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

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

3 (i) Other services or licensed or certified settings approved by the
4 director.

5 C. In addition to services prescribed in subsection A of this section,
6 home and community based services may be provided in a member's home, in an
7 adult foster care home as prescribed in section 36-401, in an assisted living
8 home or assisted living center as defined in section 36-401 or in a level one
9 or level two behavioral health alternative residential facility approved by
10 the director by program contractors to all members who are not defined as
11 ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES pursuant to
12 section 36-551 and are determined to need institutional services pursuant to
13 this article. Members residing in an assisted living center must be provided
14 the choice of single occupancy. The director may also approve other licensed
15 residential facilities as appropriate on a case by case basis for traumatic
16 brain injured members. Home and community based services may include the
17 following:

18 1. Home health, which means the provision of nursing services or home
19 health aide services or medical supplies, equipment and appliances, which are
20 provided on a part-time or intermittent basis by a licensed home health
21 agency within a member's residence based on a physician's orders and in
22 accordance with federal law. Physical therapy, occupational therapy, or
23 speech and audiology services provided by a home health agency may be
24 provided in accordance with federal law. Home health agencies shall comply
25 with federal bonding requirements in a manner prescribed by the
26 administration.

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

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

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

36 5. Adult day health, which means a service that provides planned care
37 supervision and activities, personal care, personal living skills training,
38 meals and health monitoring in a group setting during a portion of a
39 continuous twenty-four hour period. Adult day health may also include
40 preventive, therapeutic and restorative health related services that do not
41 include behavioral health services.

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

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

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

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

8 10. Other services or licensed or certified settings approved by the
9 director.

10 D. The amount of money expended by program contractors on home and
11 community based services pursuant to subsection C of this section shall be
12 limited by the director in accordance with the federal monies made available
13 to this state for home and community based services pursuant to subsection C
14 of this section. The director shall establish methods for the allocation of
15 monies for home and community based services to program contractors and shall
16 monitor expenditures on home and community based services by program
17 contractors.

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

21 F. In addition to services provided pursuant to subsections A, B and C
22 of this section, the director may implement a demonstration project to
23 provide home and community based services to special populations, including
24 ~~disabled~~ persons WITH DISABILITIES who are eighteen years of age or younger,
25 medically fragile, reside at home and would be eligible for supplemental
26 security income for the aged, blind or ~~disabled~~ PERSONS WITH DISABILITIES or
27 the state supplemental payment program, except for the amount of their
28 parent's income or resources. In implementing this project, the director may
29 provide for parental contributions for the care of their child.

30 G. Subject to section 36-562, the administration by rule shall
31 prescribe a deductible schedule for programs provided to members who are
32 eligible pursuant to subsection B of this section, except that the
33 administration shall implement a deductible based on family income. In
34 determining deductible amounts and whether a family is required to have
35 deductibles, the department shall use adjusted gross income. Families whose
36 adjusted gross income is at least four hundred per cent and less than or
37 equal to five hundred per cent of the federal poverty guidelines shall have a
38 deductible of two per cent of adjusted gross income. Families whose adjusted
39 gross income is more than five hundred per cent of adjusted gross income
40 shall have a deductible of four per cent of adjusted gross income. Only
41 families whose children are under eighteen years of age and who are members
42 who are eligible pursuant to subsection B of this section may be required to
43 have a deductible for services. For the purposes of this subsection,
44 "deductible" means an amount a family, whose children are under eighteen
45 years of age and who are members who are eligible pursuant to subsection B of

1 this section, pays for services, other than departmental case management and
2 acute care services, before the department will pay for services other than
3 departmental case management and acute care services.

4 Sec. 149. Section 36-2940, Arizona Revised Statutes, is amended to
5 read:

6 36-2940. Program contractors; annual plan

7 A. The administration shall contract with the program contractors
8 pursuant to this section or section 36-2944 using a contract as prescribed by
9 the director. The department shall be a program contractor and provide
10 services pursuant to this article either directly or through subcontracts
11 with providers or through noncontracting providers to members who are defined
12 as ~~developmentally disabled~~ PERSONS WITH DEVELOPMENTAL DISABILITIES pursuant
13 to section 36-551 and who are enrolled with the program contractor by the
14 system.

15 B. Each program contractor pursuant to this section shall annually
16 submit to the director a comprehensive plan for the delivery of services to
17 members. The plan shall include necessary information as determined by the
18 director.

19 Sec. 150. Section 36-2944, Arizona Revised Statutes, is amended to
20 read:

21 36-2944. Qualified plan health service contracts; proposals;
22 administration; contract terms

23 A. For each county that has a population of four hundred thousand
24 persons or less according to the most recent United States decennial census
25 and that was not approved as a program contractor before January 1, 1994 or
26 that officially states that it wishes to end its status as a program
27 contractor, the director at least every five years shall prepare and issue a
28 request for proposal and a proposed contract format to qualified group
29 disability insurers, hospital and medical service corporations, health care
30 services organizations and any other qualified public or private persons to
31 be a program contractor and provide services pursuant to this article on a
32 capitation rate basis to members who are enrolled with the program
33 contractors by the system, who are not ~~developmentally disabled~~ PERSONS WITH
34 DEVELOPMENTAL DISABILITIES as defined in section 36-551 and who are residents
35 of the county at the time of application for the system.

36 B. The director may adopt rules regarding the request for proposal
37 process which provide:

38 1. For the award of contracts by categories of members or services in
39 order to secure the most financially advantageous proposals for the system.

40 2. That each qualified proposal shall be entered with separate
41 categories for the distinct groups of members or services to be covered by
42 the proposed contracts, as set forth in the request for proposal.

43 3. For the procurement of reinsurance for expenses incurred by any
44 program contractor, any member or the system in providing services in excess
45 of amounts specified by the director in any contract year.

1 4. For second round competitive proposals to request voluntary price
2 reduction of proposals from only those proposals that have been tentatively
3 selected for award, before the final award or rejection of proposals.

4 C. Contracts shall be awarded as otherwise provided by law, except
5 that in no event may a contract be awarded to any program contractor which
6 will cause the system to lose any federal monies to which it is otherwise
7 entitled.

8 D. After contracts are awarded pursuant to this section, the director
9 may negotiate with any successful proposal respondent for the expansion or
10 contraction of services or service areas if there are unnecessary gaps or
11 duplications in services or service areas.

12 E. Payments to program contractors pursuant to this section shall be
13 made monthly or quarterly and may be subject to contract provisions requiring
14 the retention of a specified percentage of the payment by the director, a
15 reserve fund or other contract provisions by which adjustments to the
16 payments are made based on utilization efficiency, including incentives for
17 maintaining quality care and minimizing unnecessary inpatient
18 services. Reserve funds withheld from contracts shall be distributed to
19 program contractors who meet performance standards established by the
20 director. Any reserve fund established pursuant to this subsection shall be
21 established as a separate account within the Arizona long-term care system
22 fund.

23 F. Payments made pursuant to this section shall begin after a member
24 is enrolled in the system.

25 G. Each program contractor pursuant to this section shall submit an
26 annual audited financial and programmatic report for the preceding fiscal
27 year as required by the administration. The report shall include beginning
28 and ending fund balances, revenues and expenditures including specific
29 identification of administrative costs. The report shall include the number
30 of members served by the program contractor and the cost incurred for various
31 types of services provided to members in a format prescribed by the director.

32 H. The director shall require contract terms necessary to ensure
33 adequate performance by the program contractor of the provisions of each
34 contract executed pursuant to this section. Contract provisions required by
35 the director shall include the maintenance of deposits, performance bonds,
36 financial reserves or other financial security.

37 Sec. 151. Section 36-2959, Arizona Revised Statutes, is amended to
38 read:

39 36-2959. Reimbursement rates; capitation rates; annual review

40 A. The department shall contract with an independent consulting firm
41 for an annual study of the adequacy and appropriateness of title XIX
42 reimbursement rates to service providers for the ~~developmentally disabled~~
43 **PERSONS WITH DEVELOPMENTAL DISABILITIES** program of both the Arizona long-term
44 care system and the state only program. The consultant shall also include a
45 recommendation for annual inflationary costs. Unless modified in response to

1 federal or state law, the independent consulting firm shall include, in its
2 recommendation, costs arising from amendments to existing contracts. The
3 department may require, and the department's contracted providers shall
4 provide, financial data to the department in the format prescribed by the
5 department to assist in the study. A complete study of reimbursement rates
6 shall be completed no less than once every five years.

7 B. Capitation rate adjustments shall be limited to utilization of
8 existing services and inflation unless policy changes, including creation or
9 expansion of programs, have been approved by the legislature or are
10 specifically required by federal law or court mandate.

11 C. The administration shall contract with an independent consulting
12 firm for an annual study of the adequacy and appropriateness of title XIX
13 reimbursement rates to service providers for the elderly and ~~physically~~
14 ~~disabled~~ PHYSICAL DISABILITY program of the Arizona long-term care system.
15 The administration may require, and the administration's contracted providers
16 shall provide, financial data to the administration in the format prescribed
17 by the administration to assist in the study. A complete study of
18 reimbursement rates shall be completed no less than once every five years.
19 In determining the adequacy of the rates in the five year study, the
20 consulting firm shall examine in detail the costs associated with the
21 delivery of services, including programmatic, administrative and indirect
22 costs in providing services in rural and urban Arizona.

23 D. The department and the administration shall provide each of their
24 reports to the joint legislative budget committee and the administration by
25 October 1 of each year.

26 E. The department shall include the results of the study in its yearly
27 capitation rate request to the administration.

28 F. If results of the study are not completely incorporated into the
29 capitation rate, the administration shall provide a report to the joint
30 legislative budget committee within thirty days of setting the final
31 capitation rate, including reasons for differences between the rate and the
32 study.

33 Sec. 152. Section 36-2986, Arizona Revised Statutes, is amended to
34 read:

35 36-2986. Administration; powers and duties of director

36 A. The director has full operational authority to adopt rules or to
37 use the appropriate rules adopted for article 1 of this chapter to implement
38 this article, including any of the following:

39 1. Contract administration and oversight of contractors.

40 2. Development of a complete system of accounts and controls for the
41 program, including provisions designed to ensure that covered health and
42 medical services provided through the system are not used unnecessarily or
43 unreasonably, including inpatient behavioral health services provided in a
44 hospital.

- 1 3. Establishment of peer review and utilization review functions for
2 all contractors.
- 3 4. Development and management of a contractor payment system.
- 4 5. Establishment and management of a comprehensive system for assuring
5 quality of care.
- 6 6. Establishment and management of a system to prevent fraud by
7 members, contractors and health care providers.
- 8 7. Development of an outreach program. The administration shall
9 coordinate with public and private entities to provide outreach services for
10 children under this article. Priority shall be given to those families who
11 are moving off welfare. Outreach activities shall include strategies to
12 inform communities, including tribal communities, about the program, ensure a
13 wide distribution of applications and provide training for other entities to
14 assist with the application process.
- 15 8. Coordination of benefits provided under this article for any
16 member. The director may require that contractors and noncontracting
17 providers are responsible for the coordination of benefits for services
18 provided under this article. Requirements for coordination of benefits by
19 noncontracting providers under this section are limited to coordination with
20 standard health insurance and disability insurance policies and similar
21 programs for health coverage. The director may require members to assign to
22 the administration rights to all types of medical benefits to which the
23 person is entitled, including first party medical benefits under automobile
24 insurance policies. The state has a right of subrogation against any other
25 person or firm to enforce the assignment of medical benefits. The provisions
26 of this paragraph are controlling over the provisions of any insurance policy
27 that provides benefits to a member if the policy is inconsistent with this
28 paragraph.
- 29 9. Development and management of an eligibility, enrollment and
30 redetermination system including a process for quality control.
- 31 10. Establishment and maintenance of an encounter claims system that
32 ensures that ninety per cent of the clean claims are paid within thirty days
33 after receipt and ninety-nine per cent of the remaining clean claims are paid
34 within ninety days after receipt by the administration or contractor unless
35 an alternative payment schedule is agreed to by the contractor and the
36 provider. For the purposes of this paragraph, "clean claims" has the same
37 meaning prescribed in section 36-2904, subsection G.
- 38 11. Establishment of standards for the coordination of medical care and
39 member transfers.
- 40 12. Requiring contractors to submit encounter data in a form specified
41 by the director.
- 42 13. Assessing civil penalties for improper billing as prescribed in
43 section 36-2903.01, subsection K.
- 44 B. Notwithstanding any other law, if Congress amends title XXI of the
45 social security act and the administration is required to make conforming

1 changes to rules adopted pursuant to this article, the administration shall
2 request a hearing with the joint health committee of reference for review of
3 the proposed rule changes.

4 C. The director may subcontract distinct administrative functions to
5 one or more persons who may be contractors within the system.

6 D. The director shall require as a condition of a contract with any
7 contractor that all records relating to contract compliance are available for
8 inspection by the administration and that these records be maintained by the
9 contractor for five years. The director shall also require that these
10 records are available by a contractor on request of the secretary of the
11 United States department of health and human services.

12 E. Subject to existing law relating to privilege and protection, the
13 director shall prescribe by rule the types of information that are
14 confidential and circumstances under which this information may be used or
15 released, including requirements for physician-patient confidentiality.
16 Notwithstanding any other law, these rules shall be designed to provide for
17 the exchange of necessary information for the purposes of eligibility
18 determination under this article. Notwithstanding any other law, a member's
19 medical record shall be released without the member's consent in situations
20 of suspected cases of fraud or abuse relating to the system to an officer of
21 this state's certified Arizona health care cost containment system fraud
22 control unit who has submitted a written request for the medical record.

23 F. The director shall provide for the transition of members between
24 contractors and noncontracting providers and the transfer of members who have
25 been determined eligible from hospitals that do not have contracts to care
26 for these persons.

27 G. To the extent that services are furnished pursuant to this article,
28 a contractor is not subject to title 20 unless the contractor is a qualifying
29 plan and has elected to provide services pursuant to this article.

30 H. As a condition of a contract, the director shall require contract
31 terms that are necessary to ensure adequate performance by the contractor.
32 Contract provisions required by the director include the maintenance of
33 deposits, performance bonds, financial reserves or other financial security.
34 The director may waive requirements for the posting of bonds or security for
35 contractors who have posted other security, equal to or greater than that
36 required by the administration, with a state agency for the performance of
37 health service contracts if monies would be available from that security for
38 the system on default by the contractor.

39 I. The director shall establish solvency requirements in contract that
40 may include withholding or forfeiture of payments to be made to a contractor
41 by the administration for the failure of the contractor to comply with a
42 provision of the contract with the administration. The director may also
43 require contract terms allowing the administration to operate a contractor
44 directly under circumstances specified in the contract. The administration
45 shall operate the contractor only as long as it is necessary to assure

1 delivery of uninterrupted care to members enrolled with the contractor and to
2 accomplish the orderly transition of members to other contractors or until
3 the contractor reorganizes or otherwise corrects the contract performance
4 failure. The administration shall not operate a contractor unless, before
5 that action, the administration delivers notice to the contractor providing
6 an opportunity for a hearing in accordance with procedures established by the
7 director. Notwithstanding the provisions of a contract, if the
8 administration finds that the public health, safety or welfare requires
9 emergency action, it may operate as the contractor on notice to the
10 contractor and pending an administrative hearing, which it shall promptly
11 institute.

12 J. For the sole purpose of matters concerning and directly related to
13 this article, the administration is exempt from section 41-192.

14 K. The director may withhold payments to a noncontracting provider if
15 the noncontracting provider does not comply with this article or adopted
16 rules that relate to the specific services rendered and billed to the
17 administration.

18 L. The director shall:

19 1. Prescribe uniform forms to be used by all contractors and furnish
20 uniform forms and procedures, including methods of identification of members.
21 The rules shall include requirements that an applicant personally complete or
22 assist in the completion of eligibility application forms, except in
23 situations in which the person ~~is disabled~~ HAS A DISABILITY.

24 2. By rule, establish a grievance and appeal procedure that conforms
25 with the process and the time frames specified in article 1 of this chapter.
26 If the program is suspended or terminated pursuant to section 36-2985, an
27 applicant or member is not entitled to contest the denial, suspension or
28 termination of eligibility for the program.

29 3. Apply for and accept federal monies available under title XXI of
30 the social security act. Available state monies appropriated to the
31 administration for the operation of the program shall be used as matching
32 monies to secure federal monies pursuant to this subsection.

33 M. The administration is entitled to all rights provided to the
34 administration for liens and release of claims as specified in sections
35 36-2915 and 36-2916 and shall coordinate benefits pursuant to section
36 36-2903, subsection F and be a payor of last resort for persons who are
37 eligible pursuant to this article.

38 N. The director shall follow the same procedures for review
39 committees, immunity and confidentiality that are prescribed in article 1 of
40 this chapter.

1 I was present when this was signed (or marked). The
2 patient then appeared to be of sound mind and free from duress.

3 _____ date _____
4 (Witness)

5 C. A person who has a valid prehospital medical care directive
6 pursuant to this section may wear an identifying bracelet on either the wrist
7 or the ankle. The bracelet shall be substantially similar to identification
8 bracelets worn in hospitals. The bracelet shall be on an orange background
9 and state the following in bold type:

10 Do Not Resuscitate

11 Patient: _____

12 Patient's physician: _____

13 D. If the person has designated an agent to make health care decisions
14 under section 36-3221 or has been appointed a guardian for health care
15 decisions pursuant to title 14, that agent or guardian shall sign if the
16 person is no longer competent to do so.

17 E. A prehospital medical care directive is effective until it is
18 revoked or superseded by a new document.

19 F. Emergency medical system and hospital emergency department
20 personnel who make a good faith effort to identify the patient and who rely
21 on an apparently genuine directive or a photocopy of a directive on orange
22 paper are immune from liability to the same extent and under the same
23 conditions as prescribed in section 36-3205. If a person has any doubt as to
24 the validity of a directive or the medical situation, that person shall
25 proceed with resuscitative efforts as otherwise required by law. Emergency
26 medical system personnel are not required to accept or interpret medical care
27 directives that do not meet the requirements of this section.

28 G. In the absence of a physician, a person without vital signs who is
29 not resuscitated pursuant to a prehospital medical care directive may be
30 pronounced dead by any peace officer of this state, a professional nurse
31 licensed pursuant to title 32, chapter 15 or an emergency medical technician
32 certified pursuant to this title.

33 H. This section does not apply to situations involving mass casualties
34 or to medical emergencies involving children and ~~disabled~~ adults **WITH**
35 **DISABILITIES** in public or private schools that are not licensed health care
36 institutions as defined in section 36-401.

37 I. After being notified of a death by emergency medical system
38 personnel, the person's physician or the county medical examiner is then
39 responsible for signing the death certificate.

40 J. The office of emergency medical services in the department of
41 health services shall print prehospital medical care directive forms and make
42 them available to the public. The department may charge a fee that covers
43 the department's costs to prepare the form. The department and its employees
44 are immune from civil liability for issuing prehospital medical care
45 directive forms that meet the requirements of this section. A person may use

1 a form that is not prepared by the department of health services if that form
2 meets the requirements of this section. If an organization distributes a
3 prehospital medical care directive form that meets the requirements of this
4 section, that organization and its employees are also immune from civil
5 liability.

6 K. Any prehospital medical care directive prepared before April 24,
7 1994 is valid if it was valid at the time it was prepared.

8 L. For the purposes of this section, "emergency medical system
9 personnel" includes emergency medical technicians at all levels who are
10 certified by the department of health services and medical personnel who are
11 licensed by this state and who are operating outside of an acute care
12 hospital under the direction of an emergency medical system agency recognized
13 by the department of health services.

14 Sec. 155. Section 36-3405, Arizona Revised Statutes, is amended to
15 read:

16 36-3405. Division annual report; monthly report

17 A. By January 1 of each year, the director shall submit a financial
18 and programmatic report for the preceding fiscal year to the governor, the
19 speaker of the house of representatives and the president of the senate.

20 B. The report required pursuant to subsection A **OF THIS SECTION** shall
21 include revenues and expenditures for the division and total revenues and
22 expenditures including specific identification of administrative costs for
23 each behavioral health program by the following categories:

- 24 1. The seriously mentally ill.
- 25 2. Alcohol and drug abuse.
- 26 ~~3. Severely emotionally handicapped children.~~
- 27 3. **CHILDREN WITH SEVERE EMOTIONAL DISABILITIES.**
- 28 4. Domestic violence.
- 29 5. The Arizona state hospital.

30 C. The report required pursuant to subsection A **OF THIS SECTION** shall
31 include the number of clients served by each behavioral health service.

32 D. The director shall provide a monthly report to the governor, the
33 speaker of the house of representatives and the president of the senate which
34 shall, by regional behavioral health authority, separately report title XIX
35 and nontitle XIX categories and shall include for each category the number of
36 persons served, the units of service and the amount of funding provided for
37 client services and the amount provided for regional behavioral health
38 authority administration and case management expenses.

39 Sec. 156. Section 37-525, Arizona Revised Statutes, is amended to
40 read:

41 37-525. Other land funds; composition; use

42 A. After any appropriation pursuant to section 37-527, the
43 legislative, executive and judicial public buildings land fund, the
44 penitentiary land fund, the Arizona state hospital land fund, the state
45 charitable, penal and reformatory institutions land fund, the schools and

1 asylum for the deaf, dumb and blind land fund, the miners' hospital for
2 ~~disabled~~ miners WITH DISABILITIES land fund and the military institutes land
3 fund shall separately consist of:

4 1. The proceeds of all lands granted to this state by the United
5 States for the respective purposes named.

6 2. All property donated by individuals for like purposes, unless the
7 terms of the donation otherwise provide.

8 3. The sale of timber, mineral, gravel or other natural products or
9 property from lands granted or donated for such purposes.

10 B. The funds shall be and remain perpetual funds for the benefit and
11 support of institutions corresponding to the purposes for which the funds are
12 established, except as otherwise provided in the enabling act and section
13 37-295 and distributions from the funds pursuant to article X, section 7,
14 Constitution of Arizona together with the monies derived from the rental of
15 the lands and property shall be used. Monies in the state charitable, penal
16 and reformatory institutions land fund are subject to legislative
17 appropriation.

18 Sec. 157. Section 38-492, Arizona Revised Statutes, is amended to
19 read:

20 38-492. Preferences

21 A. A veteran of the armed forces of the United States who is separated
22 from the armed forces under honorable conditions following more than six
23 months of active duty and who takes an examination for employment by this
24 state or any political subdivision of this state under a merit system of
25 employment as provided by section 38-491, in the determination of the
26 veteran's final rating on the examination, shall be given a preference of
27 five points over persons other than veterans. The preference shall be added
28 to the grade earned by the veteran, but only if the veteran earns a passing
29 grade without preference. Any veteran who is entitled under 10 United States
30 Code chapter 1223 to retired pay for non-regular service or, but for age,
31 would be entitled under that chapter to retired pay for non-regular service
32 and who takes an examination for employment by any political subdivision of
33 this state under a merit system of employment as provided by section 38-491,
34 in the determination of the veteran's final rating on the examination, shall
35 be given a preference of five points over persons other than veterans. The
36 preference shall be added to the grade earned by the veteran, but only if the
37 veteran earns a passing grade without preference.

38 B. A ~~disabled~~ person WITH A DISABILITY who takes an examination for
39 employment by this state or any political subdivision of this state under a
40 merit system of employment, in the determination of the ~~disabled person's~~
41 PERSON'S WITH A DISABILITY final rating on such examination, shall be given a
42 preference of five points. The preference shall be added to the grade earned
43 by the ~~disabled~~ person WITH A DISABILITY but only if such person earns a
44 passing grade without preference. For the purposes of this subsection,
45 "~~disabled~~ person WITH A DISABILITY" means an individual who has a physical or

1 mental impairment that substantially limits one or more major life activities
2 of the individual or who has a record of such an impairment or is regarded as
3 having such an impairment.

4 C. A person qualified for a preference pursuant to subsections A and B
5 of this section shall be given a ten point preference.

6 D. A spouse or surviving spouse of any of the following, otherwise
7 qualified pursuant to subsection A of this section, shall be given a five
8 point preference as if the spouse or surviving spouse were an eligible
9 veteran pursuant to subsection A of this section:

10 1. Any veteran who died of a service-connected disability.

11 2. Any member of the armed forces who is serving on active duty and
12 who, at the time of application, is listed by the secretary of defense of the
13 United States in any of the following categories for not less than ninety
14 days:

15 (a) Missing in action.

16 (b) Captured in the line of duty by a hostile force.

17 (c) Forcibly detained or interned in the line of duty by a foreign
18 government or power.

19 3. A person who has a total, permanent disability resulting from a
20 service-connected disability or any person who died while the disability was
21 in existence.

22 E. An honorably separated veteran who served on active duty in the
23 armed forces at any time and who has a service-connected disability or is
24 receiving compensation or disability retirement benefits under laws
25 administered by the United States department of veterans affairs, army, navy,
26 air force, coast guard or United States public health service shall be given
27 a ten point preference pursuant to this section.

28 F. If a person is eligible for a preference pursuant to this section
29 and the person applies for employment with this state or any political
30 subdivision of this state under a merit system of employment as provided by
31 section 38-491 in which applicants are assessed and evaluated but scores are
32 not given, preference shall be given by granting applicable preference codes
33 to qualified applicants.

34 G. No person eligible for a preference pursuant to this section shall
35 be allowed more than a ten point preference.

36 H. If a department, division or agency of this state or any political
37 subdivision of this state is operated under a merit system prescribed by the
38 federal government or a department, division or agency of the federal
39 government, the provisions of that system, including preferences, prevail.

1 Sec. 158. Section 38-651.01, Arizona Revised Statutes, is amended to
2 read:

3 38-651.01. Group health and accident coverage for retired
4 public employees and elected officials and their
5 dependents

6 A. The department of administration, by rule, shall adopt standards to
7 establish group health and accident coverage for former employees who worked
8 for the state of Arizona and who opt on retirement to enroll or continue
9 enrollment in the group health and accident coverage for active employees
10 working for the state of Arizona, or ~~disabled~~ WITH A DISABILITY, and
11 receiving either income from a retirement program of this state or long-term
12 disability income benefits pursuant to section 38-651.03 or chapter 5,
13 article 2.1 of this title and their dependents and to establish eligibility
14 for retired or ~~disabled~~ state employees WITH A DISABILITY to participate in
15 the coverage. The department of administration may adopt rules that provide
16 that if a retired or ~~disabled~~ insured PERSON WITH A DISABILITY dies before an
17 insured surviving dependent, the insured surviving dependent is entitled to
18 extended coverage at group rates if the insured surviving dependent elects to
19 continue in the coverage within six months of the retired or ~~disabled~~
20 ~~insured's~~ INSURED PERSON'S WITH A DISABILITY death and the insured surviving
21 dependent agrees to pay the cost of the premium for group health and accident
22 insurance. On notification of the retired or ~~disabled~~ WITH A DISABILITY
23 insured's death, the department of administration shall immediately notify an
24 insured surviving dependent of the provisions of this section. The
25 department of administration may enter into agreements with ~~disabled~~ former
26 state employees WITH A DISABILITY and their dependents who elect to obtain
27 the coverage provided by this section. The agreements may include provisions
28 for the payment of amounts sufficient to pay for the premium and
29 administrative expense of providing the coverage. The department of
30 administration may adopt rules that provide that on the death of a state
31 employee who at the time of death was eligible for normal retirement pursuant
32 to section 38-757 under the Arizona state retirement system, the insured
33 surviving spouse and eligible dependent children are entitled to continue
34 coverage under group rates provided that the deceased insured state employee,
35 spouse and dependent children were insured at the time of the employee's
36 death. The insured surviving spouse shall be charged an amount sufficient to
37 pay the full premium for the coverage.

38 B. The department of administration, by rule, may adopt standards to
39 establish group health and accident coverage for former elected officials of
40 this state or its political subdivisions and their dependents and to
41 establish eligibility for former elected officials to participate in the
42 coverage. Qualifications for eligibility shall include that the former
43 elected official has at least five years of credited service in the elected
44 officials' retirement plan pursuant to chapter 5 of this title, had been
45 covered under a group health or group health and accident plan while serving

1 as an elected official and had been serving as an elected official on or
2 after January 1, 1983. The department of administration may adopt rules that
3 provide that on the death of an elected official or insured former elected
4 official, the insured surviving spouse is entitled to coverage at group rates
5 provided that the deceased insured former elected official met or would have
6 met the qualifications for eligibility pursuant to this subsection or that
7 the deceased elected official would have met the qualifications for
8 eligibility had the deceased not been in office at the time of death. Except
9 as provided in subsection J of this section, the insured former elected
10 official or the insured surviving spouse shall be charged amounts that are
11 sufficient to pay for the premium and state administrative expense of
12 providing coverage. Notwithstanding subsection J of this section, the
13 standards shall provide that all or any portion of the former state employees
14 or former elected officials or their dependents shall be grouped with
15 officers and employees of the state and its departments and agencies or their
16 dependents as necessary to obtain health and accident coverage at favorable
17 rates.

18 C. The Arizona state retirement system board may enter into agreements
19 with retired and ~~disabled~~ state employee members of the system and plan WITH
20 A DISABILITY and retired members of the elected officials' defined
21 contribution retirement system established pursuant to chapter 5, article 3.1
22 of this title who elect to obtain the coverage provided pursuant to
23 subsection A of this section. The agreements may include provision for the
24 deduction from the retirement benefits of participants of a retirement
25 program of this state who elect to obtain coverage of amounts sufficient to
26 pay for the premium not covered under retirement benefits and state
27 administrative expense of providing coverage.

28 D. Retired state employee or ~~disabled~~ state employee members WITH A
29 DISABILITY of the public safety personnel retirement system, the elected
30 officials' retirement plan, the elected officials' defined contribution
31 retirement system established pursuant to chapter 5, article 3.1 of this
32 title, the corrections officer retirement plan or the optional retirement
33 programs authorized pursuant to section 15-1628 who opt on retirement to
34 enroll or continue enrollment in the group health and accident coverage for
35 active employees working for the state of Arizona and their dependents and
36 who are receiving benefits from the public safety personnel retirement
37 system, the elected officials' retirement plan, the elected officials'
38 defined contribution retirement system established pursuant to chapter 5,
39 article 3.1 of this title, the corrections officer retirement plan or the
40 optional retirement programs authorized pursuant to section 15-1628 may
41 participate in group health and accident coverage provided pursuant to this
42 section. The department of administration shall adopt rules that are
43 necessary for the implementation of this subsection.

44 E. The board of trustees of the public safety personnel retirement
45 system may enter into agreements with retired state employee members and

1 their dependents who elect to obtain the coverage provided pursuant to this
2 section. The agreements may include provision for the deduction from the
3 retirement benefits of participants of a retirement program of this state who
4 elect to obtain coverage of amounts sufficient to pay for the premium not
5 covered under retirement benefits and state administrative expense of
6 providing coverage.

7 F. The board of trustees of the public safety personnel retirement
8 system may enter into agreements with retired judges and retired elected
9 officials and their dependents who elect to obtain the coverage provided
10 pursuant to this section. The agreements may include provision for the
11 deduction from the retirement benefits of participants of a retirement
12 program of this state who elect to obtain coverage of amounts sufficient to
13 pay for the premium not covered under retirement benefits and state
14 administrative expense of providing coverage.

15 G. The board of trustees of the public safety personnel retirement
16 system may contract with an insurance carrier and adopt standards to
17 establish a group health and accident insurance coverage program for retired
18 members of the public safety personnel retirement system, their dependents
19 and their spouses. Any members or spouses who elect to obtain the group
20 health and accident coverage provided under this subsection shall agree to a
21 deduction from their monthly retirement benefits of an amount sufficient to
22 pay for the premium not covered under retirement benefits and the
23 administrative expense of providing coverage.

24 H. A county board of supervisors may enter into agreements to
25 establish group health and accident coverage for retired or ~~disabled~~
26 employees WITH A DISABILITY and their dependents who elect to obtain the
27 coverage provided pursuant to section 11-263, subsection B. The agreements
28 may include provision for the deduction from the retirement benefits of
29 participants of a retirement program of this state who elect to obtain the
30 coverage of amounts sufficient to pay for the premium not covered under
31 retirement benefits and the administrative expense of providing for the
32 coverage.

33 I. Nonmedicare eligible retirees who live in this state, who enroll in
34 a qualifying plan under this section and who reside outside the area of a
35 qualifying health maintenance organization shall be offered the option to
36 enroll with a qualified health maintenance organization offered through their
37 provider under the same premiums as if they lived within the area boundaries
38 of the qualified health maintenance organization provided that:

39 1. All medical services are rendered and received at an office
40 designated by the qualifying health maintenance organization or at a facility
41 referred by the health maintenance organization.

42 2. All nonemergency or nonurgent travel, ambulatory and other expenses
43 from the residence area of the retiree to the designated office of the
44 qualifying health maintenance organization or the facility referred by the

1 health maintenance organization are the responsibility of and at the expense
2 of the retiree.

3 3. All emergency or urgent travel, ambulatory and other expenses from
4 the residence area of the retiree to the designated office of the qualifying
5 health maintenance organization or the facility referred by the health
6 maintenance organization shall be paid pursuant to any agreement between the
7 health maintenance organization and the retiree living outside the area of
8 the qualifying health maintenance organization.

9 J. Public funds shall not be expended to pay all or any part of the
10 premium of insurance pursuant to this section except for monies authorized to
11 be paid for any insured from the retirement plan from which the insured is
12 receiving benefits.

13 K. A retired member of the elected officials' defined contribution
14 retirement system established pursuant to chapter 5, article 3.1 of this
15 title may elect to obtain the coverage provided pursuant to subsection A of
16 this section, but shall pay the premium for the coverage selected and is not
17 eligible for benefits pursuant to section 38-783 or 38-817.

18 Sec. 159. Section 38-712, Arizona Revised Statutes, is amended to
19 read:

20 38-712. ASRS purpose; trust fund

21 A. The primary intent of ASRS is to:

22 1. Provide an incentive in the recruitment and retention of employees
23 of the highest possible quality.

24 2. Contribute toward providing a total compensation package that is
25 generally equivalent to comparable employment in other public and private
26 organizations in this state.

27 3. Provide a retirement system that encourages employees to remain in
28 service for periods of time that will provide public employers with the full
29 benefit of the training and experience gained by the employees.

30 4. Provide an orderly method of promoting and maintaining a high level
31 of service to the public through an equitable separation procedure that is
32 available to employees at retirement or on becoming ~~disabled~~ A PERSON WITH A
33 DISABILITY.

34 5. Provide a base retirement benefit that is less than one hundred per
35 cent of a member's post-retirement income requirements, recognizing that
36 personal savings and social security also contribute toward total
37 post-retirement income requirements.

38 B. ASRS is a defined benefit plan as described in section 414(j) of
39 the internal revenue code. As provided in section 38-771, some eligible
40 members of ASRS are entitled to benefits under the defined contribution
41 program administered by ASRS. With respect to the portion of ASRS that
42 provides benefits to members entitled to benefits under the defined
43 contribution program that are derived from employer contributions and that
44 are based partly on the balance of the separate account of a member, ASRS is
45 a plan described in section 414(k) of the internal revenue code and shall

1 comply with all applicable provisions of section 414(k) of the internal
2 revenue code.

3 C. A public employee's retirement trust fund is established to afford
4 an optimum degree of security to the members of ASRS. All monies and other
5 assets of ASRS are a part of the trust fund. All accounts, depositories and
6 funds of ASRS are included within the trust fund.

7 D. Except as provided in section 38-738, an employer does not have a
8 beneficial interest in any asset of the trust fund, and no part of the trust
9 fund may ever revert to or be paid, directly or indirectly, to an
10 employer. All liabilities with respect to members and their beneficiaries
11 shall be satisfied before any part of the corpus or income of the trust fund
12 is used for or diverted to purposes other than for the exclusive benefit of
13 members or their beneficiaries.

14 Sec. 160. Section 38-745, Arizona Revised Statutes, is amended to
15 read:

16 38-745. Credit for military service

17 A. An active member of ASRS or a member who is receiving benefits
18 pursuant to section 38-797.07 may purchase up to sixty months of credited
19 service in ASRS for active military service if all of the following apply:

20 1. The member was honorably separated from the military service.

21 2. The member submits a copy of the member's military service record
22 (DD-214) or its equivalent with the member's application for military service
23 credit.

24 3. A member has at least five years of credited service in ASRS.

25 4. Except as provided by 10 United States Code section 12736, the
26 member is not yet eligible for a military retirement benefit.

27 B. The cost to purchase military service credit is an amount equal to
28 the present value of the additional benefit that is derived from the
29 purchased credited service using the actuarial assumptions that are approved
30 by the board.

31 C. An active member of ASRS who is called to active military service
32 may receive credited service for not more than sixty months of active
33 military service, except as provided by the uniformed services employment and
34 reemployment rights act (38 United States Code section 4312(c)). The
35 member's employer shall make employer contributions and member contributions
36 for the member if the member meets the following requirements:

37 1. Was an active member of ASRS on the day before the member began
38 active military service.

39 2. Is a member of the Arizona national guard or is a member of the
40 reserves of any military establishment of the United States.

41 3. Volunteers or is ordered into active military service of the United
42 States as part of a military call-up.

43 4. One of the following occurs:

44 (a) Is honorably separated from active military service and returns to
45 employment for the same employer from which the member left for active

1 military service within ninety days after the date active military service is
2 terminated.

3 (b) Is hospitalized as a result of military service and returns to
4 employment for the same employer from which the member left for active
5 military service within ninety days after release from service related
6 hospitalization.

7 (c) Becomes ~~disabled~~ A PERSON WITH A DISABILITY as a result of or
8 during the military service and is unable to return to the same employer.

9 (d) Dies as a result of or during the military service.

10 D. Contributions made pursuant to subsection C of this section shall
11 be for the period of time beginning on the date the member began active
12 military service and ending on the later of one of the following dates:

13 1. The date the member returns to employment or the date the member
14 should have returned to employment pursuant to 20 Code of Federal Regulations
15 section 1002.115, whichever date is earlier.

16 2. The date the member is released from service related
17 hospitalization or two years after initiation of service related
18 hospitalization, whichever date is earlier.

19 3. One year after the date of disability.

20 4. The date the member dies as a result of or during active military
21 service.

22 E. Notwithstanding any other law, on payment of the contributions made
23 pursuant to subsection C of this section, the member shall be credited with
24 service for retirement purposes for the period of time of active military
25 service of not more than sixty months.

26 F. The employer shall make contributions pursuant to subsection C of
27 this section as follows:

28 1. Contributions shall be based on the compensation that a member
29 would have received but for the period that the member was ordered into
30 active military service.

31 2. If the employer cannot reasonably determine a member's rate of
32 compensation for the period that the member was ordered into active military
33 service, the employer shall make contributions based on the member's average
34 rate of compensation during the twelve-month period immediately preceding the
35 period of active military service.

36 3. If a member has been employed less than twelve months before being
37 ordered into active military service, the employer shall make contributions
38 based on the employment period immediately preceding the period of active
39 military service.

40 4. Employer contributions shall be made in a lump sum and without
41 penalty when the member returns to employment, when it is determined that the
42 member is unable to return to employment because of a disability as a result
43 of or that occurred during military service or on receipt of the member's
44 death certificate. If a member suffers a service related death, the employer
45 shall make the employer and member contributions up to and including the date

1 of the member's death. Death benefits shall be calculated as prescribed by
2 law.

3 G. In computing the length of total credited service of a member for
4 the purpose of determining retirement benefits or eligibility, the period of
5 military service, as prescribed by this section, shall be included.

6 H. Notwithstanding any other law, the member is not required to
7 reimburse the member's employer or ASRS for any contribution made pursuant to
8 subsection C of this section.

9 I. In addition to, but not in duplication of, the provisions of
10 subsection C of this section, contributions, benefits and credited service
11 provided pursuant to this section shall be provided in accordance with
12 section 414(u) of the internal revenue code.

13 J. A member who does not currently perform services for an employer by
14 reason of qualified military service, as that term is defined in section
15 414(u) of the internal revenue code, and who is receiving differential wage
16 payments, as that term is defined in section 3401(h)(2) of the internal
17 revenue code, shall not be considered as having a severance from employment
18 for all purposes under ASRS during the period the differential wages are
19 being paid by the employer to the employee.

20 Sec. 161. Section 38-755, Arizona Revised Statutes, is amended to
21 read:

22 38-755. Information as to member's status; beneficiary
23 designation; spousal consent; confidentiality

24 A. Subject to rules prescribed by the board, on application of a
25 member, the board shall furnish information concerning the member's status.
26 In addition, the board shall furnish to each member an account, that may be
27 electronic or online, showing the status of the member's account, including
28 the name of the member's beneficiary as last listed with the board.

29 B. The member may change the member's beneficiary at any time in a
30 manner established by ASRS.

31 C. A member who is married shall name and maintain the member's
32 current spouse as a beneficiary to receive at least fifty per cent of the
33 member's account, unless naming or maintaining the current spouse as a
34 beneficiary violates another law, an existing contract or a court order. The
35 member's current spouse may consent to a waiver of this requirement pursuant
36 to section 38-776.

37 D. In order to protect a member's identity from fraud, abuse, theft or
38 civil or criminal activity, information about a member is not subject to
39 inspection pursuant to title 39, chapter 1, article 2, except that the
40 following information about a member is subject to inspection:

41 1. The member's name.

42 2. Whether the member is an active member as defined in section
43 38-711, an inactive member as defined in section 38-711 or a retired member
44 as defined in section 38-711.

45 3. The member's current or most recent employer.

1 4. For a retired member, the average monthly compensation, as defined
2 in section 38-711, used to calculate the member's retirement benefit.

3 5. The credited service as defined in section 38-711 on account for an
4 active or inactive member or the credited service used to calculate the
5 retirement benefit for a retired member.

6 6. The gross pension amount actually paid to a retired member.

7 7. The most recent retirement date.

8 8. The current account balance for an active or inactive member.

9 9. The gross long-term disability program benefit actually paid to a
10 ~~disabled~~ member WITH A DISABILITY pursuant to article 2.1 of this chapter.

11 10. The amount paid to purchase credited service pursuant to section
12 38-743, 38-744 or 38-745.

13 11. The amount of credited service purchased pursuant to section
14 38-743, 38-744 or 38-745.

15 E. ASRS shall not permit any unredacted record to be inspected that
16 contains a member's social security number, bank account information,
17 address, telephone number, e-mail address, medical records, health insurance
18 information, beneficiary or survivor information or disability information or
19 any information that is protected by any federal or state law.

20 Sec. 162. Section 38-765, Arizona Revised Statutes, is amended to
21 read:

22 38-765. Errors; benefit recomputation

23 If any change or error in the records results in any member or
24 beneficiary receiving from ASRS more or less than the member or beneficiary
25 would have been entitled to receive if the records had been correct, ASRS
26 shall correct the error and as far as practicable shall adjust the payments
27 in a manner so that the actuarial equivalent of the benefit to which the
28 member or beneficiary was correctly entitled is paid. ASRS shall correct any
29 change or error and shall pay the appropriate monies to a member or
30 beneficiary or shall recover monies from the member or beneficiary if the
31 member or beneficiary is overpaid. ASRS shall recover monies by reducing any
32 benefit otherwise payable by ASRS or the LTD program established by article
33 2.1 of this chapter to an active, inactive, ~~disabled~~ PERSON WITH A DISABILITY
34 or retired member, survivor, contingent annuitant, beneficiary or alternate
35 payee.

36 Sec. 163. Section 38-769, Arizona Revised Statutes, is amended to
37 read:

38 38-769. Maximum retirement benefits; termination; definitions

39 A. Notwithstanding any other provision of this article, except as
40 provided in subsection C of this section, the employer provided portion of a
41 member's annual benefit payable in the form of a straight life annuity, at
42 any time within a limitation year, shall not exceed one hundred sixty
43 thousand dollars or a larger amount that is effective as of January 1 of each
44 calendar year, is prescribed by the board and is due to any cost of living
45 adjustment announced by the United States secretary of the treasury pursuant

1 to section 415(d) of the internal revenue code. The board shall increase the
2 amount pursuant to this subsection as of the effective date of the increase
3 as prescribed by the United States secretary of the treasury. Benefit
4 increases provided in this section resulting from the increase in the
5 limitations of section 415(b) of the internal revenue code as amended by the
6 economic growth and tax relief reconciliation act of 2001 shall be provided
7 to all current and former members who have benefits that are limited by
8 section 415(b) of the internal revenue code and who have an accrued benefit
9 under ASRS immediately before July 1, 2001, other than an accrued benefit
10 resulting from a benefit increase solely as a result of the increases
11 provided by this section resulting from the increase in the limitations of
12 section 415(b) of the internal revenue code as amended by the economic growth
13 and tax relief reconciliation act of 2001.

14 B. Notwithstanding the limitations of subsection A of this section,
15 the benefits payable to a member are deemed not to exceed the limitations
16 determined under subsection A of this section if the retirement benefits
17 payable to the member under this article do not exceed ten thousand dollars
18 for the limitation year and if an employer has not at any time maintained a
19 defined contribution plan in which the member has participated.

20 C. The limitations determined under subsection A of this section are
21 subject to the following adjustments:

22 1. If a member has less than ten years of membership in ASRS, the
23 maximum dollar limitation determined under subsection A of this section shall
24 be multiplied by a fraction, the numerator of which is the number of years,
25 or partial years, of membership in ASRS and the denominator of which is ten.
26 The reduction provided in this paragraph also applies to the ten thousand
27 dollar floor limitation provided in subsection B of this section, except that
28 the reduction applies to years of service with an employer rather than to
29 years of membership in ASRS. The reduction in this paragraph does not reduce
30 the limitations determined under subsection A of this section to an amount
31 less than one-tenth of the limitations as determined without regard to this
32 paragraph.

33 2. If the member's benefit under ASRS commences before the member
34 reaches sixty-two years of age, the benefit will be limited to:

35 (a) If the annuity starting date is in a limitation year beginning
36 before July 1, 2007, the annual amount of a benefit payable in the form of a
37 straight life annuity commencing at the member's annuity starting date that
38 is the actuarial equivalent of the dollar limitation under section
39 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this
40 section, with actuarial equivalence computed using whichever of the following
41 produces the smaller annual amount:

42 (i) The interest rate and mortality table or other tabular factor
43 specified by the board for determining actuarial equivalence for early
44 retirement purposes.

1 (ii) A five per cent interest rate assumption and the applicable
2 mortality table.

3 (b) If the annuity starting date is in a limitation year beginning on
4 or after July 1, 2007 and ASRS does not have an immediately commencing
5 straight life annuity payable at both age sixty-two and the age of benefit
6 commencement, the annual amount of a benefit payable in the form of a
7 straight life annuity commencing at the member's annuity starting date that
8 is the actuarial equivalent of the dollar limitation under section
9 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this
10 section, with actuarial equivalence computed using a five per cent interest
11 rate assumption and the applicable mortality table and expressing the
12 member's age based on completed calendar months as of the annuity start date.

13 (c) If the annuity starting date is in a limitation year beginning on
14 or after July 1, 2007 and ASRS has an immediately commencing straight life
15 annuity payable at both age sixty-two and the age of benefit commencement,
16 the lesser of:

17 (i) The adjusted dollar limitation determined in accordance with
18 subdivision (b) of this paragraph, determined without applying the
19 limitations of section 415 of the internal revenue code.

20 (ii) The product of the dollar limitation under section 415(b)(1)(A)
21 of the internal revenue code as adjusted in subsection A of this section,
22 multiplied by the ratio of the annual amount of the immediately commencing
23 straight life annuity under ASRS at the member's annuity starting date to the
24 annual amount of the immediately commencing straight life annuity under ASRS
25 at age sixty-two, determined without applying the limitations of section 415
26 of the internal revenue code.

27 3. If the retirement benefit under ASRS commences after the member
28 reaches sixty-five years of age, the dollar limitation under section
29 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this
30 section on that benefit is increased to:

31 (a) If the annuity starting date is in a limitation year beginning
32 before July 1, 2007, the annual amount of a benefit payable in the form of a
33 straight life annuity commencing at the member's annuity starting date that
34 is the actuarial equivalent of the dollar limitation under section
35 415(b)(1)(A) as adjusted under section 415(d) of the internal revenue code,
36 with actuarial equivalence computed using whichever of the following produces
37 the smaller annual amount:

38 (i) The interest rate and mortality table or other tabular factor
39 specified by the board for determining actuarial equivalence for delayed
40 retirement purposes.

41 (ii) A five per cent interest rate assumption and the applicable
42 mortality table.

43 (b) If the annuity starting date is in a limitation year beginning on
44 or after July 1, 2007 and ASRS does not have an immediately commencing
45 straight life annuity payable at both age sixty-five and the age of benefit

1 commencement, the annual amount of a benefit payable in the form of a
2 straight life annuity commencing at the member's annuity starting date that
3 is the actuarial equivalent of the dollar limitation under section
4 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this
5 section, with actuarial equivalence computed using a five per cent interest
6 rate assumption and the applicable mortality table and expressing the
7 member's age based on completed calendar months as of the annuity starting
8 date.

9 (c) If the annuity starting date is in a limitation year beginning on
10 or after July 1, 2007 and ASRS has an immediately commencing straight life
11 annuity payable at both age sixty-five and the age of benefit commencement,
12 the lesser of:

13 (i) The adjusted dollar limitation determined in accordance with
14 subdivision (b) of this paragraph, determined without applying the
15 limitations of section 415 of the internal revenue code.

16 (ii) The product of the dollar limitation under section 415(b)(1)(A)
17 of the internal revenue code as adjusted in subsection A of this section,
18 multiplied by the ratio of the annual amount of the immediately commencing
19 straight life annuity under ASRS at the member's annuity starting date to the
20 annual amount of the immediately commencing straight life annuity under ASRS
21 at age sixty-five, determined without applying the limitations of section 415
22 of the internal revenue code.

23 4. For purposes of applying the limits of section 415 of the internal
24 revenue code, a retirement benefit that is payable in any form other than a
25 straight life annuity and that is not subject to section 417(e)(3) of the
26 internal revenue code must be adjusted to an actuarially equivalent straight
27 life annuity that equals either:

28 (a) For limitation years beginning on or after July 1, 2007, the
29 greater of the annual amount of the straight life annuity, if any, payable
30 under ASRS at the same annuity starting date, and the annual amount of a
31 straight life annuity commencing at the same annuity starting date that has
32 the same actuarial present value as the member's form of benefit computed
33 using an interest rate of five per cent and the applicable mortality table
34 under section 417(e)(3) of the internal revenue code.

35 (b) For limitation years beginning before July 1, 2007, the annual
36 amount of a straight life annuity commencing at the same annuity starting
37 date that has the same actuarial present value as the member's form of
38 benefit computed using whichever of the following produces the greater annual
39 amount:

40 (i) The interest rate and mortality table or other tabular factor
41 specified by the board for adjusting benefits in the same form.

42 (ii) A five per cent interest rate assumption and the applicable
43 mortality table.

44 5. For the purpose of applying the limits of section 415 of the
45 internal revenue code, a retirement benefit that is payable in any form other

1 than a straight life annuity to which section 417(e)(3) of the internal
2 revenue code would apply if that section of the internal revenue code were
3 applicable to ASRS must be adjusted to an actuarially equivalent straight
4 life annuity that equals:

5 (a) If the annuity starting date is in a plan year beginning on or
6 after July 1, 2006, the annual amount of the straight life annuity commencing
7 at the same annuity starting date that has the same actuarial present value
8 as the member's form of benefit, using whichever of the following produces
9 the greater annual amount:

10 (i) The interest rate and mortality table or other tabular factor
11 specified by the board for adjusting benefits in the same form.

12 (ii) A five and one-half per cent interest rate assumption and the
13 applicable mortality table.

14 (iii) The applicable interest rate under section 417(e)(3) of the
15 internal revenue code and the applicable mortality table, divided by 1.05.

16 (b) If the annuity starting date is in a plan year beginning in July
17 1, 2004 or July 1, 2005, the annual amount of the straight life annuity
18 commencing at the same annuity starting date that has the same actuarial
19 present value as the member's form of benefit payable, using whichever of the
20 following produces the greater annual amount:

21 (i) The interest rate and mortality table or other tabular factor
22 specified by the board for adjusting benefits in the same form.

23 (ii) A five and one-half per cent interest assumption and the
24 applicable mortality table.

25 (c) If the annuity starting date is on or after July 1, 2004 and
26 before December 31, 2004, and ASRS applies the transition rule in section
27 101(d)(3) of the pension funding equity act of 2005 in lieu of the rule in
28 subdivision (b) of this paragraph, the annual amount of the straight life
29 annuity commencing at the same annuity starting date that has the same
30 actuarial present value as the member's form of benefit, determined in
31 accordance with internal revenue service notice 2004-78.

32 6. When calculating the limitations of paragraph 4 or 5 of this
33 subsection, the portion of any joint or survivor annuity that constitutes a
34 qualified joint and survivor annuity as defined in section 417 of the
35 internal revenue code shall be disregarded.

36 D. Subsection C, paragraphs 1 and 2 of this section do not apply to
37 income received from ASRS as a pension, annuity or similar allowance as a
38 result of the recipient ~~becoming disabled~~ DEVELOPING A DISABILITY by
39 personal injury or sickness or to amounts received from ASRS by
40 beneficiaries, survivors or the estate of a member as a result of the death
41 of the member.

42 E. Notwithstanding any other provision of this section, the annual
43 benefit payable under this article may be reduced to the extent necessary, as
44 determined by the board, to prevent disqualification of ASRS under section
45 415 of the internal revenue code that imposes additional limitations on the

1 annual benefits payable to members who also may be participating in another
 2 tax qualified pension or savings plan of this state. An employer shall not
 3 provide employee retirement or deferred benefits if the benefits authorized
 4 by this section and as required by federal law result in the failure of ASRS
 5 to meet federal qualification standards as applied to public pension plans.
 6 The board shall advise affected members of any additional information
 7 concerning their annual benefits required by this subsection. All benefits
 8 payable pursuant to this subsection shall comply with the limitations of
 9 benefits contained in section 415 of the internal revenue code and the final
 10 treasury regulations issued under that section. Notwithstanding any
 11 provision of this article to the contrary, if the annual benefits within the
 12 meaning of section 415 of the internal revenue code for any member exceed the
 13 limits of section 415(b) of the internal revenue code and this section, ASRS
 14 may only correct the excess pursuant to the employee plans compliance
 15 resolution system prescribed in internal revenue service revenue procedure
 16 2008-50 or any future guidance by the internal revenue service, including the
 17 preamble of the final treasury regulations issued under section 415 of the
 18 internal revenue code.

19 F. If the maximum amount of benefit allowed under section 415 of the
 20 internal revenue code is increased after the commencement date of a member's
 21 benefit due to any cost of living adjustment announced by the United States
 22 secretary of the treasury pursuant to the provisions of section 415(d) of the
 23 internal revenue code, the amount of the monthly benefit payable under ASRS
 24 to a member whose benefit is restricted due to the provisions of section
 25 415(d) of the internal revenue code shall be increased by the board as of the
 26 date prescribed by the United States secretary of the treasury on which the
 27 increase shall become effective. The increase shall reflect the increase in
 28 the amount of retirement income that may be payable under this article as a
 29 result of the cost of living adjustment.

30 G. In determining the adjustments to the defined benefit dollar
 31 limitation authorized by subsection A of this section, the board shall
 32 prescribe a larger defined benefit dollar limitation if prescribed by the
 33 United States secretary of the treasury pursuant to section 415(d) of the
 34 internal revenue code. An adjustment to the defined benefit dollar
 35 limitation prescribed in subsection A of this section is not effective before
 36 the first calendar year for which the United States secretary of the treasury
 37 publishes the adjustment. After it is prescribed by the board, the new
 38 defined benefit dollar limitation applies to the limitation year ending with
 39 or within the calendar year for which the secretary of the treasury makes the
 40 adjustment.

41 H. For the purposes of the limitations prescribed by this section, all
 42 member and employer contributions made to ASRS to provide a member benefits
 43 pursuant to section 38-771 or 38-771.01 and all member contributions that are
 44 not treated as picked up by the employer under section 414(h)(2) of the

1 internal revenue code shall be treated as made to a separate defined
2 contribution plan.

3 I. On termination or partial termination of ASRS, the accrued benefit
4 of each member is, as of the date of termination or partial termination,
5 fully vested and nonforfeitable to the extent then funded.

6 J. If ASRS terminates, the benefit of any highly compensated employee
7 as defined in section 414(q) of the internal revenue code and any highly
8 compensated former employee is limited to a benefit that is nondiscriminatory
9 under section 401(a)(4) of the internal revenue code and as follows:

10 1. Benefits distributed to any of the twenty-five active and former
11 highly compensated employees with the greatest compensation in the current or
12 any prior fiscal year are restricted so that the annual payments are no
13 greater than an amount equal to the payment that would be made on behalf of
14 the member under a straight life annuity that is the actuarial equivalent of
15 the sum of the member's accrued benefit, the member's other benefits under
16 ASRS, excluding a social security supplement as defined in 26 Code of Federal
17 Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is
18 entitled to receive under a social security supplement.

19 2. Paragraph 1 of this subsection does not apply if either:

20 (a) After payment of the benefit to a member described in paragraph 1
21 of this subsection, the value of ASRS assets equals or exceeds one hundred
22 ten per cent of the value of the current liabilities, as defined in section
23 412(1)(7) of the internal revenue code, of ASRS.

24 (b) The value of the benefits for a member described in paragraph 1 of
25 this subsection is less than one per cent of the value of the current
26 liabilities, as defined in section 412(1)(7) of the internal revenue code, of
27 ASRS before distribution.

28 (c) The value of the benefits payable by ASRS to a member described in
29 paragraph 1 of this subsection does not exceed three thousand five hundred
30 dollars.

31 K. For the purposes of subsection J of this section, "benefit"
32 includes loans in excess of the amount prescribed in section 72(p)(2)(A) of
33 the internal revenue code, any periodic income, any withdrawal values payable
34 to a living member and any death benefits not provided for by insurance on
35 the member's life.

36 L. On retirement of a member who was a retired member, who resumed
37 active membership and who subsequently retires, the limitations of this
38 section in effect on the member's subsequent retirement apply to the member's
39 retirement benefit payable as recomputed pursuant to section 38-766. In
40 addition, the sum of the present value of the member's recomputed retirement
41 benefits plus the present value of the benefits the member received during
42 the member's prior retirement shall not exceed the present value of the
43 limitations in effect on the member's subsequent retirement. The limitations
44 prescribed in this subsection shall not reduce a member's retirement benefit
45 below the retirement benefit the member was receiving before the member

1 resumed active membership. For the purposes of determining present value
2 under this subsection, the board shall use the actuarial equivalent
3 assumptions provided in section 38-711, paragraph 2.

4 M. For the purposes of this section:

5 1. The following adjustments shall be made to the definition of
6 compensation prescribed in subsection 0 of this section:

7 (a) Compensation shall be adjusted for the types of compensation that
8 are prescribed in this paragraph and that are paid after a member's severance
9 from employment with an employer. Amounts described in subdivisions (b), (c)
10 and (d) of this paragraph may be included only as compensation to the extent
11 the amounts are paid by the later of two and one-half months after severance
12 from employment or by the end of the limitation year that includes the date
13 of the severance from employment. Any other payment of compensation paid
14 after severance of employment that is not described in the types of
15 compensation prescribed in this paragraph is not considered compensation for
16 purposes of this section, even if payment is made within the time period
17 prescribed in this subdivision.

18 (b) Compensation shall include regular pay after severance of
19 employment if the payment is regular compensation for services performed
20 during the member's regular working hours or compensation for services
21 performed outside the member's regular working hours, such as overtime or
22 shift differential, commission, bonus or other similar payments, and the
23 payment would have been paid to the member before a severance from employment
24 if the member had continued in employment with the employer.

25 (c) Leave cash-outs shall be included in compensation if those amounts
26 would have been included in compensation if they were paid before the
27 member's severance from employment and the amounts are payment for unused
28 accrued bona fide sick, vacation or other leave, but only if the member would
29 have been able to use the leave if employment had continued.

30 (d) Deferred compensation shall be included in compensation if the
31 compensation would have been included in compensation if it had been paid
32 before the member's severance from employment and the compensation is
33 received pursuant to a nonqualified unfunded deferred compensation plan, but
34 only if the payment would have been paid at the same time if the member had
35 continued in employment with the employer and only to the extent that the
36 payment is includable in the member's gross income.

37 (e) Compensation does include payments to an individual who does not
38 currently perform services for an employer by reason of qualified military
39 service as defined in section 414(u)(5) of the internal revenue code to the
40 extent those payments do not exceed the amounts the individual would have
41 received if the individual had continued to perform services for the employer
42 rather than entering qualified military service.

43 (f) Compensation does not include compensation paid to a member who is
44 ~~permanently and totally disabled~~ A PERSON WITH A PERMANENT AND TOTAL
45 DISABILITY as defined in section 22(e)(3) of the internal revenue code.

1 (g) Compensation shall include amounts that are includable in the
2 gross income of a member as required by section 409A or section 457(f)(1)(A)
3 of the internal revenue code or because the amounts are constructively
4 received by the member.

5 2. Compensation for a limitation year shall not include amounts earned
6 but not paid during the limitation year solely because of the timing of pay
7 periods and pay dates.

8 3. Payments awarded by an administrative agency or court or pursuant
9 to a bona fide agreement by an employer to compensate a member for lost wages
10 are compensation for the limitation year to which the back pay relates, but
11 only to the extent the payments represent wages and compensation that would
12 otherwise be included in compensation under this section.

13 N. The definition of limitation year prescribed in subsection 0 of
14 this section may only be changed by an amendment to subsection 0, except that
15 if ASRS is terminated effective as of a date other than the last day of the
16 limitation year, the termination shall be treated as if this section has been
17 amended to change the definition of limitation year.

18 0. For the purposes of this section:

19 1. Annual additions shall be determined as provided in section 38-747,
20 subsection 0.

21 2. "Annual benefit" means a benefit, including any portion of a
22 member's retirement benefit payable to an alternate payee under a qualified
23 domestic relations order that satisfies the requirements prescribed in
24 section 414(p)(1)(A)(i) of the internal revenue code and section 38-773,
25 payable annually in the form of a straight life annuity, disregarding the
26 portion of a joint and survivor annuity that constitutes a qualified joint
27 and survivor annuity as defined in section 417 of the internal revenue code,
28 with no ancillary or incidental benefits or rollover contributions and
29 excluding any portion of the benefit derived from member contributions or
30 other contributions that are treated as a separate defined contribution plan
31 under section 415 of the internal revenue code but including any of those
32 contributions that are picked up by the employer under section 414(h) of the
33 internal revenue code, or that otherwise are not treated as a separate
34 defined contribution plan. If the benefit is payable in another form, the
35 determination as to whether the limitation described in subsection A of this
36 section has been satisfied shall be made by the board by adjusting the
37 benefit so that it is actuarially equivalent to the annual benefit described
38 in this paragraph in accordance with the regulations promulgated by the
39 United States secretary of the treasury. In addition, for determining the
40 annual benefit attributable to member contributions, the factors described in
41 section 411(c)(2)(B) of the internal revenue code and the regulations
42 promulgated under the internal revenue code shall be used by the board
43 regardless of whether section 411 of the internal revenue code applies to
44 ASRS. The factors described in section 411(c)(2)(B) of the internal revenue
45 code shall be those factors described under section 417(e)(3) of the internal

1 revenue code and determined on the basis of the 417(e) mortality table and an
2 interest rate as prescribed in subsection C, paragraph 5 of this section.

3 3. "Applicable mortality table" means the mortality table described in
4 internal revenue service revenue ruling 2001-62.

5 4. "Compensation" means the member's earned income, wages, salaries,
6 fees for professional service and other amounts received for personal
7 services actually rendered in the course of employment with the employer and
8 includes amounts described in sections 104(a)(3) and 105(a) of the internal
9 revenue code, but only to the extent that these amounts are includable in the
10 gross income of the member. Compensation also includes any elective deferral
11 as defined in section 402(g)(3) of the internal revenue code and any amount
12 that is contributed or deferred by an employer at the election of a member
13 and that is not includable in the gross income of the member by reason of
14 section 125, 132(f)(4) or 457 of the internal revenue code. Compensation
15 does not mean:

16 (a) Employer contributions to a plan of deferred compensation to the
17 extent the contributions are not included in the gross income of the employee
18 for the taxable year in which contributed and any distributions from a plan
19 of deferred compensation, regardless of whether the amounts are includable in
20 gross income of the employee when distributed, except that any amount
21 received by a member pursuant to an unfunded nonqualified plan may be
22 considered as compensation for the purposes of this section in the year the
23 amounts are includable in the gross income of the member under the internal
24 revenue code.

25 (b) Other amounts that receive special tax benefits, such as premiums
26 for group term life insurance, but only to the extent that the premiums are
27 not includable in the gross income of the employee, qualified transportation
28 fringe benefits as defined in section 132 of the internal revenue code and,
29 effective for plan years beginning from and after December 31, 1987, any
30 amounts under section 125 of the internal revenue code that are not available
31 to a member in cash in lieu of group health coverage because the member is
32 unable to certify that the member has other health coverage.

33 5. "Defined benefit dollar limitation" means the dollar limitation
34 determined under subsection A of this section.

35 6. "Defined benefit plan" has the same meaning prescribed in section
36 414(j) of the internal revenue code.

37 7. "Defined contribution plan" has the same meaning prescribed in
38 section 414(i) of the internal revenue code.

39 8. "Limitation year" and "years of service" mean the fiscal year.

1 Sec. 164. Section 38-782, Arizona Revised Statutes, is amended to
2 read:

3 38-782. Group health and accident coverage for retired public
4 employees and elected officials and their dependents:
5 definition

6 A. The board shall establish group health and accident coverage for
7 eligible retired, surviving and ~~disabled~~ members WITH A DISABILITY and their
8 dependents. The board may establish a self-insurance program for the
9 purposes of this subsection if the board determines that self-insuring would
10 be less expensive than and at least as effective as a fully insured plan,
11 while considering the risks and costs. If the board establishes a
12 self-insurance program, the board shall provide that the self-insurance
13 program include all health coverage benefits that are required pursuant to
14 title 20. ASRS shall establish a separate account for any self-insurance
15 program established pursuant to this section in an amount determined
16 appropriate by ASRS. ASRS shall not use or divert any part of the corpus or
17 income of the account for any purpose other than to administer the
18 self-insurance program unless the board determines that a self-insurance
19 program should no longer be offered. If a self-insurance program is no
20 longer offered, monies in the account shall be transferred to another account
21 of ASRS as determined by ASRS. If an insured retired or ~~disabled~~ member WITH
22 A DISABILITY dies before the insured member's dependent beneficiary or an
23 insured surviving dependent, the dependent beneficiary or insured surviving
24 dependent is entitled to coverage at group rates if the dependent beneficiary
25 or surviving dependent elects to continue in the coverage within six months
26 of the insured member's death and the dependent beneficiary or surviving
27 dependent agrees to pay the cost of the premium for group health and accident
28 insurance. On notification of the insured member's death, the board shall
29 immediately notify a dependent beneficiary or an insured surviving dependent
30 of the provisions of this section.

31 B. Retired members of the public safety personnel retirement system,
32 the elected officials' retirement plan, the elected officials' defined
33 contribution retirement system established pursuant to article 3.1 of this
34 chapter, the corrections officer retirement plan or the optional retirement
35 programs authorized pursuant to sections 15-1451 and 15-1628 and their
36 dependents who are receiving benefits from the public safety personnel
37 retirement system, the elected officials' retirement plan, the elected
38 officials' defined contribution retirement system established pursuant to
39 article 3.1 of this chapter, the corrections officer retirement plan or the
40 optional retirement programs authorized pursuant to sections 15-1451 and
41 15-1628 and who are not covered by section 38-651.01 may participate in group
42 health and accident coverage provided pursuant to this section. On the death
43 of an insured member of the public safety personnel retirement system, the
44 elected officials' retirement plan, the elected officials' defined
45 contribution retirement system established pursuant to article 3.1 of this

1 chapter, the corrections officer retirement plan or the optional retirement
2 programs authorized pursuant to sections 15-1451 and 15-1628, the insured
3 surviving dependent is entitled to coverage at group rates. Except as
4 provided in subsection H of this section, the surviving dependent shall be
5 charged amounts that are sufficient to pay for the premium and administrative
6 expense of providing the coverage.

7 C. The board may enter into agreements with retired, surviving and
8 ~~disabled~~ members WITH A DISABILITY of ASRS and retired members of the elected
9 officials' defined contribution retirement system established pursuant to
10 article 3.1 of this chapter who elect to obtain the coverage provided
11 pursuant to subsection A of this section. Those agreements may include
12 provisions for the deduction from the retirement benefits of the members who
13 elect to obtain the coverage of amounts sufficient to pay for the premium not
14 covered under retirement benefits and the administrative expense of providing
15 the coverage.

16 D. The board of trustees of the public safety personnel retirement
17 system may enter into agreements with retired members of the public safety
18 personnel retirement system, the elected officials' retirement plan, the
19 corrections officer retirement plan and their dependents who elect to obtain
20 the coverage provided pursuant to this section. Those agreements may include
21 provisions for the deduction from the retirement benefits of the members who
22 elect to obtain the coverage of amounts sufficient to pay for the premium not
23 covered under their retirement benefits and the administrative expense of
24 providing the coverage.

25 E. The board may enter into agreements with retired members of the
26 optional retirement programs authorized pursuant to sections 15-1451 and
27 15-1628 and their dependents who elect to obtain the coverage provided
28 pursuant to this section. Those agreements may include provisions for the
29 payment of amounts sufficient to pay for the premium and administrative
30 expense of providing the coverage.

31 F. If an insured member receiving long-term disability benefits
32 pursuant to article 2.1 of this chapter becomes ineligible for the long-term
33 disability benefits, the member and the covered dependents of the member may
34 continue to participate in the group health and accident coverage provided
35 pursuant to this section subject to the following conditions:

36 1. Participation in the coverage is limited to twelve months from the
37 date the member ceases eligibility for benefits under article 2.1 of this
38 chapter or the member commences employment, whichever occurs first.

39 2. The member shall pay the full premium cost of the coverage
40 selected, and the member is not eligible for benefits pursuant to section
41 38-783.

42 3. If a member who participates in the coverage dies during the twelve
43 month period provided by this subsection, covered dependents of the member
44 may continue coverage after the death of the member through the end of the
45 twelve month period. Covered dependents of the member who continue coverage

1 pursuant to this paragraph shall pay the full premium cost of the coverage
2 selected and are not eligible for benefits pursuant to section 38-783.

3 G. Retired, surviving or ~~disabled~~ members WITH A DISABILITY who are
4 not eligible for medicare, who live in this state, who enroll in a qualifying
5 health maintenance organization under this section and who reside outside the
6 area of a qualifying health maintenance organization shall be offered the
7 option of enrolling with a qualified health maintenance organization offered
8 through their provider under the same premiums as if they lived within the
9 area boundaries of the qualified health maintenance organization provided
10 that:

11 1. All medical services are rendered and received at an office
12 designated by the qualifying health maintenance organization or at a facility
13 referred by the health maintenance organization.

14 2. All nonemergency or nonurgent travel, ambulatory and other expenses
15 from the residence area of the member to the designated office of the
16 qualifying health maintenance organization or the facility referred by the
17 health maintenance organization are the responsibility of and at the expense
18 of the member.

19 3. All emergency or urgent travel, ambulatory and other expenses from
20 the residence area of the member to the designated office of the qualifying
21 health maintenance organization or the facility referred by the health
22 maintenance organization shall be paid pursuant to any agreement between the
23 health maintenance organization and the member living outside the area of the
24 qualifying health maintenance organization.

25 H. Public monies shall not be spent to pay all or any part of the
26 insurance premium pursuant to this section except for monies authorized to be
27 paid for any insured from the retirement plan from which the insured is
28 receiving benefits.

29 I. A retired member of the elected officials' defined contribution
30 retirement system established pursuant to article 3.1 of this chapter may
31 elect to obtain the coverage provided pursuant to subsection A of this
32 section, but shall pay the premium for the coverage selected and is not
33 eligible for benefits pursuant to section 38-783 or 38-817.

34 J. For the purposes of this section, "eligible retired, surviving and
35 ~~disabled~~ member WITH A DISABILITY" means a retired member who is receiving
36 retirement benefits from ASRS, a designated beneficiary of a deceased member
37 who is receiving a survivor benefit pursuant to section 38-762, subsection C
38 as monthly income or a ~~disabled~~ member WITH A DISABILITY who is receiving
39 long-term disability benefits pursuant to section 38-651.03 or article 2.1 of
40 this chapter, and who does not otherwise elect to obtain coverage under a
41 group health and accident insurance plan or program.

1 Sec. 165. Section 38-783, Arizona Revised Statutes, is amended to
2 read:

3 38-783. Retired members; dependents; health insurance; premium
4 payment; separate account; definitions

5 A. Subject to subsections G, H and I of this section, the board shall
6 pay from ASRS assets part of the single coverage premium of any health and
7 accident insurance for each retired, contingent annuitant or ~~disabled~~ member
8 WITH A DISABILITY of ASRS if the member elects to participate in the coverage
9 provided by ASRS or section 38-651.01 or elects to participate in a health
10 and accident insurance program provided or administered by an employer or
11 paid for, in whole or in part, by an employer to an insurer. A contingent
12 annuitant must be receiving a monthly retirement benefit from ASRS in order
13 to obtain any premium payment provided by this section. The board shall pay:

14 1. Up to one hundred fifty dollars per month for a member of ASRS who
15 is not eligible for medicare if the retired or ~~disabled~~ member WITH A
16 DISABILITY has ten or more years of credited service.

17 2. Up to one hundred dollars per month for each member of ASRS who is
18 eligible for medicare if the retired or ~~disabled~~ member WITH A DISABILITY has
19 ten or more years of credited service.

20 B. Subject to subsections G, H and I of this section, the board shall
21 pay from ASRS assets part of the family coverage premium of any health and
22 accident insurance for a retired, contingent annuitant or ~~disabled~~ member
23 WITH A DISABILITY of ASRS who elects family coverage and who otherwise
24 qualifies for payment pursuant to subsection A of this section. If a member
25 of ASRS and the member's spouse are both either retired or ~~disabled~~ HAVE
26 DISABILITIES under ASRS and apply for family coverage, the member who elects
27 family coverage is entitled to receive the payments under this section as if
28 they were both applying under a single coverage premium unless the payment
29 under this section for family coverage is greater. Payment under this
30 subsection is in the following amounts:

31 1. Up to two hundred sixty dollars per month if the member of ASRS and
32 one or more dependents are not eligible for medicare.

33 2. Up to one hundred seventy dollars per month if the member of ASRS
34 and one or more dependents are eligible for medicare.

35 3. Up to two hundred fifteen dollars per month if either:

36 (a) The member of ASRS is not eligible for medicare and one or more
37 dependents are eligible for medicare.

38 (b) The member of ASRS is eligible for medicare and one or more
39 dependents are not eligible for medicare.

40 C. In addition each retired, contingent annuitant or ~~disabled~~ member
41 WITH A DISABILITY of ASRS with less than ten years of credited service and a
42 dependent of such a retired, contingent annuitant or ~~disabled~~ member WITH A
43 DISABILITY who elects to participate in the coverage provided by ASRS or
44 section 38-651.01 or who elects to participate in a health and accident
45 insurance program provided or administered by an employer or paid for, in

1 whole or in part, by an employer to an insurer is entitled to receive a
2 proportion of the full benefit prescribed by subsection A or B of this
3 section according to the following schedule:

- 4 1. 9.0 to 9.9 years of credited service, ninety per cent.
- 5 2. 8.0 to 8.9 years of credited service, eighty per cent.
- 6 3. 7.0 to 7.9 years of credited service, seventy per cent.
- 7 4. 6.0 to 6.9 years of credited service, sixty per cent.
- 8 5. 5.0 to 5.9 years of credited service, fifty per cent.
- 9 6. Those with less than five years of credited service do not qualify
10 for the benefit.

11 D. The board shall not pay more than the amount prescribed in this
12 section for a member of ASRS.

13 E. Notwithstanding subsections A, B and C of this section, for a
14 member who retires on or after ~~the effective date of this amendment to this~~
15 ~~section~~ AUGUST 2, 2012, the board shall not make a payment under this section
16 to a retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY who
17 is enrolled in an employer's active employee group health and accident
18 insurance program either as the insured or as a dependent, except that if the
19 retired, contingent annuitant or ~~disabled~~ member WITH A DISABILITY is
20 enrolled as a dependent and the premium paid to the employer's active
21 employee group health and accident insurance program is not subsidized by the
22 employer, the retired, contingent annuitant or ~~disabled~~ member WITH A
23 DISABILITY is entitled to receive the amount provided in subsection A of this
24 section.

25 F. The board shall establish a separate account that consists of the
26 benefits provided by this section. The board shall not use or divert any
27 part of the corpus or income of the account for any purpose other than the
28 provision of benefits under this section unless the liabilities of ASRS to
29 provide the benefits are satisfied. If the liabilities of ASRS to provide
30 the benefits described in this section are satisfied, the board shall return
31 any amount remaining in the account to the employer.

32 G. Payment of the benefits provided by this section is subject to the
33 following conditions:

34 1. The payment of the benefits is subordinate to the payment of
35 retirement benefits payable by ASRS.

36 2. The total of contributions for the benefits and actual
37 contributions for life insurance protection, if any, shall not exceed
38 twenty-five per cent of the total actual employer and employee contributions
39 to ASRS, less contributions to fund past service credits, after the day the
40 account is established.

41 3. The board shall deposit the benefits provided by this section in
42 the account.

43 4. The contributions by the employer to the account shall be
44 reasonable and ascertainable.

1 H. A member who elects to receive a retirement benefit pursuant to
 2 section 38-760, subsection B, paragraph 1 may elect at the time of retirement
 3 an optional form of health and accident insurance premium benefit payment
 4 pursuant to this subsection as follows:

5 1. The optional premium benefit payment shall be an amount prescribed
 6 by subsection A, B or C of this section that is actuarially reduced to the
 7 retiring member for life. The amount of the optional premium benefit payment
 8 shall be the actuarial equivalent of the premium benefit payment to which the
 9 retired member would otherwise be entitled. The election in a manner
 10 prescribed by the board shall name the contingent annuitant and may be
 11 revoked at any time before the retiring member's effective date of
 12 retirement. At any time after benefits have commenced, the member may name a
 13 different contingent annuitant or rescind the election by written notice to
 14 the board as follows:

15 (a) If the retired member names a different contingent annuitant, the
 16 optional premium benefit payment shall be adjusted to the actuarial
 17 equivalent of the original premium benefit payment based on the age of the
 18 new contingent annuitant. The adjustment shall include all postretirement
 19 increases or decreases in amounts prescribed by subsection A, B or C of this
 20 section that are authorized by law after the retired member's date of
 21 retirement. Payment of this adjusted premium benefit payment shall continue
 22 under the provisions of the optional premium benefit payment previously
 23 elected by the retired member. A retired member cannot name a different
 24 contingent annuitant if the retired member has at any time rescinded the
 25 optional form of health and accident insurance premium benefit payment.

26 (b) If the retired member rescinds the election, the retired member
 27 shall thereafter receive the premium benefit payment that the retired member
 28 would otherwise be entitled to receive if the retired member had not elected
 29 the optional premium benefit payment, including all postretirement increases
 30 or decreases in amounts prescribed by subsection A, B or C of this section
 31 that are authorized by law after the member's date of retirement. The
 32 increased benefit payment shall continue during the remainder of the retired
 33 member's lifetime. The decision to rescind shall be irrevocable.

34 2. If, at the time of the retired member's death:

35 (a) The retired member was receiving a reduced premium benefit payment
 36 based on an amount prescribed in subsection B or C of this section and the
 37 contingent annuitant is eligible for family health and accident insurance
 38 coverage, the contingent annuitant is entitled to receive a premium benefit
 39 payment based on an amount prescribed in subsection B or C of this section
 40 times the reduction factor applied to the retired member's premium benefit
 41 payment times the joint and survivor option reduction factor elected by the
 42 retired member at the time of retirement pursuant to section 38-760,
 43 subsection B, paragraph 1.

44 (b) The retired member was receiving a reduced premium benefit payment
 45 based on an amount prescribed in subsection A or C of this section and the

1 contingent annuitant is eligible for single health and accident insurance
2 coverage, the contingent annuitant is entitled to receive a premium benefit
3 payment based on an amount prescribed in subsection A or C of this section
4 times the reduction factor applied to the retired member's premium benefit
5 payment times the joint and survivor option reduction factor elected by the
6 retired member at the time of retirement pursuant to section 38-760,
7 subsection B, paragraph 1.

8 (c) The retired member was receiving a reduced premium benefit payment
9 based on an amount prescribed in subsection B or C of this section and the
10 contingent annuitant is not eligible for family health and accident insurance
11 coverage, the contingent annuitant is entitled to receive a premium benefit
12 payment based on an amount prescribed in subsection A or C of this section
13 times the reduction factor applied to the retired member's premium benefit
14 payment times the joint and survivor option reduction factor elected by the
15 retired member at the time of retirement pursuant to section 38-760,
16 subsection B, paragraph 1.

17 I. A member who elects to receive a retirement benefit pursuant to
18 section 38-760, subsection B, paragraph 2 may elect at the time of retirement
19 an optional form of health and accident insurance premium benefit payment
20 pursuant to this subsection as follows:

21 1. The optional premium benefit payment shall be an amount prescribed
22 by subsection A, B or C of this section that is actuarially reduced with
23 payments for five, ten or fifteen years that are not dependent on the
24 continued lifetime of the retired member but whose payments continue for the
25 retired member's lifetime beyond the five, ten or fifteen year period. The
26 election in a manner prescribed by the board shall name the contingent
27 annuitant and may be revoked at any time before the retiring member's
28 effective date of retirement. At any time after benefits have commenced, the
29 member may name a different contingent annuitant or rescind the election by
30 written notice to the board. If the retired member rescinds the election,
31 the retired member shall thereafter receive the premium benefit payment that
32 the retired member would otherwise be entitled to receive if the retired
33 member had not elected the optional premium benefit payment, including all
34 postretirement increases or decreases in amounts prescribed by subsection A,
35 B or C of this section that are authorized by law after the member's date of
36 retirement. The increased benefit payment shall continue during the
37 remainder of the retired member's lifetime. The decision to rescind shall be
38 irrevocable.

39 2. If, at the time of the retired member's death:

40 (a) The retired member was receiving a reduced premium benefit payment
41 based on an amount prescribed in subsection B or C of this section and the
42 contingent annuitant is eligible for family health and accident insurance
43 coverage, the contingent annuitant is entitled to receive a premium benefit
44 payment based on an amount prescribed in subsection B or C of this section
45 times the period certain and life option reduction factor elected by the

1 retired member at the time of retirement pursuant to section 38-760,
2 subsection B, paragraph 2.

3 (b) The retired member was receiving a reduced premium benefit payment
4 based on an amount prescribed in subsection A or C of this section and the
5 contingent annuitant is eligible for single health and accident insurance
6 coverage, the contingent annuitant is entitled to receive a premium benefit
7 payment based on an amount prescribed in subsection A or C of this section
8 times the period certain and life option reduction factor elected by the
9 retired member at the time of retirement pursuant to section 38-760,
10 subsection B, paragraph 2.

11 (c) The retired member was receiving a reduced premium benefit payment
12 based on an amount prescribed in subsection B or C of this section and the
13 contingent annuitant is not eligible for family health and accident insurance
14 coverage, the contingent annuitant is entitled to receive a premium benefit
15 payment based on an amount prescribed in subsection A or C of this section
16 times the period certain and life option reduction factor elected by the
17 retired member at the time of retirement pursuant to section 38-760,
18 subsection B, paragraph 2.

19 J. If, at the time of retirement, a retiring member does not elect to
20 receive a reduced premium benefit payment pursuant to subsection H or I of
21 this section, the retired member's contingent annuitant is not eligible at
22 any time for the optional premium benefit payment.

23 K. A contingent annuitant is not eligible for any premium benefit
24 payment if the contingent annuitant was not enrolled in an eligible health
25 and accident insurance plan at the time of the retired member's death or if
26 the contingent annuitant is not the dependent beneficiary or insured
27 surviving dependent as provided in section 38-782.

28 L. For the purposes of this section:

29 1. "Account" means the separate account established pursuant to
30 subsection F of this section.

31 2. "Credited service" includes prior service.

32 3. "Prior service" means service for this state or a political
33 subdivision of this state before membership in the defined contribution
34 program administered by ASRS.

35 4. "Subsidized" means a portion of the total premium is paid by the
36 employer, but does not necessarily mean a plan in which the employer uses
37 blended rates to determine the total premium.

38 Sec. 166. Section 38-797, Arizona Revised Statutes, is amended to
39 read:

40 38-797. Definitions

41 In this article, unless the context otherwise requires:

42 1. "ASRS" means the Arizona state retirement system established by
43 article 2 of this chapter.

44 2. "Assets" means the accumulated resources of the LTD program.

- 1 3. "Board" means the ASRS board established pursuant to section
2 38-713.
- 3 4. "Compensation" has the same meaning prescribed in section 38-711.
- 4 5. "Depository" means a bank in which the monies of the LTD program
5 are deposited and collateralized as provided by law.
- 6 6. "Employer" has the same meaning prescribed in section 38-711.
- 7 7. "Employer contributions" means all amounts paid into the LTD
8 program by an employer.
- 9 8. "Fiscal year" has the same meaning prescribed in section 38-711.
- 10 9. "LTD program" means the long-term disability program established by
11 this article.
- 12 10. "Member":
- 13 (a) Has the same meaning prescribed in section 38-711.
- 14 (b) Includes an employee described in section 38-956.
- 15 11. "Monthly compensation" means one-twelfth of a member's annual
16 compensation paid and payable in the fiscal year during which a member
17 ~~becomes disabled~~ DEVELOPS A DISABILITY.
- 18 12. "Normal retirement date":
- 19 (a) Has the same meaning prescribed in section 38-711 for members
20 eligible pursuant to article 2 of this chapter.
- 21 (b) Means sixty-five years of age for members eligible pursuant to
22 section 38-956.
- 23 13. "Political subdivision" has the same meaning prescribed in section
24 38-711.
- 25 14. "State" has the same meaning prescribed in section 38-711.
- 26 Sec. 167. Section 38-797.07, Arizona Revised Statutes, is amended to
27 read:
- 28 38-797.07. LTD program benefits; limitations; definitions
- 29 A. The LTD program is subject to the following limitations:
- 30 1. Except as provided in paragraph 9 of this subsection, monthly LTD
31 program benefits shall not exceed two-thirds of a member's monthly
32 compensation at the time disability commences, reduced by:
- 33 (a) For a member whose disability commences before July 1, 2008,
34 sixty-four per cent of social security disability benefits that the member
35 and the member's dependents are eligible to receive.
- 36 (b) For a member whose disability commences on or after July 1, 2008,
37 eighty-five per cent of social security disability benefits that the member
38 and the member's dependents are eligible to receive, but not including:
- 39 (i) The amount of attorney fees approved pursuant to social security
40 administration rules and reasonable documented costs paid to an attorney to
41 secure that disability benefit.
- 42 (ii) Any cost-of-living adjustments that are granted after the member
43 commences benefits under this section.

1 (c) For a member whose disability commences before July 1, 2008,
2 eighty-three per cent of social security retirement benefits that the member
3 is eligible to receive.

4 (d) For a member whose disability commences on or after July 1, 2008,
5 eighty-five per cent of social security retirement benefits that the member
6 is eligible to receive, but not including any cost-of-living adjustments that
7 are granted after the member commences benefits under this section.

8 (e) All of any workers' compensation benefits.

9 (f) All of any payments for a veteran's disability if both of the
10 following apply:

11 (i) The veteran's disability payment is for the same condition or a
12 condition related to the condition currently causing the member's total
13 disability.

14 (ii) The veteran's disability is due to, or a result of, service in
15 the armed forces of the United States.

16 (g) All of any other benefits by reason of employment that are
17 financed partly or wholly by an employer, including payments for sick leave.
18 This subdivision does not include any retirement benefit that is received by
19 the member pursuant to a state retirement system or plan other than ASRS.

20 (h) Fifty per cent of any salary, wages, commissions or other
21 employment related pay that the member receives or is entitled to receive
22 from any gainful employment in which the member actually engages.

23 2. For a member whose disability commences on or after August 2, 2012,
24 a member's monthly income from the monthly LTD program benefits and sources
25 listed in paragraph 1 of this subsection shall not exceed one hundred per
26 cent of the member's monthly compensation at the time disability
27 commences. ASRS shall offset the member's monthly LTD program benefits by
28 the amount necessary to reduce the member's total monthly income to meet the
29 limit prescribed in this paragraph.

30 3. Monthly LTD program benefits are not payable until a member has
31 ~~been totally disabled~~ HAD A TOTAL DISABILITY for a period of six consecutive
32 months.

33 4. Monthly LTD program benefits are not payable to a member who files
34 an initial claim for disability more than twelve months after the date of the
35 member's date of disability unless the member demonstrates to ASRS good cause
36 for not filing the initial claim within twelve months after the date of
37 disability.

38 5. Monthly LTD program benefits are not payable to a member who is
39 receiving retirement benefits from ASRS.

40 6. Monthly LTD program benefits are not payable to a member whose
41 disability is due to, or a result of, any of the following:

42 (a) An intentionally self-inflicted injury.

43 (b) War, whether declared or not.

44 (c) An injury incurred while engaged in a felonious criminal act or
45 enterprise.

1 (d) For a member whose most recent membership in the LTD program
2 commences before July 1, 2008, an injury or sickness for which the member
3 received medical treatment within three months before the date of the
4 member's coverage under the LTD program. This subdivision does not apply to
5 a member who either:

6 (i) Has been an active member of an employer for twelve continuous
7 months.

8 (ii) Is employed by an employer before July 1, 1988.

9 (e) For a member whose most recent membership in the LTD program
10 commences on or after July 1, 2008, an injury or sickness for which the
11 member received medical treatment within six months before the date of the
12 member's coverage under the LTD program. This subdivision does not apply to
13 a member who has been an active member of an employer for twelve continuous
14 months.

15 7. Monthly LTD program benefits cease to be payable to a member at the
16 earliest of the following:

17 (a) The date the member ceases to ~~be totally disabled~~ HAVE A TOTAL
18 DISABILITY.

19 (b) The date the member:

20 (i) Ceases to be under the direct care of a doctor.

21 (ii) Refuses to undergo any medical examination or refuses to
22 participate in any work rehabilitation program for which the member is
23 reasonably qualified by education, training or experience and that is
24 requested by the insurance company or claims administrator that is selected
25 by the board to administer the LTD program.

26 (c) The date the member withdraws employee contributions with interest
27 and ceases to be a member.

28 (d) The later of the following:

29 (i) The member's normal retirement date.

30 (ii) The month following sixty months of payments if disability occurs
31 before sixty-five years of age.

32 (iii) The month following attainment of seventy years of age if
33 disability occurs at sixty-five years of age or after but before sixty-nine
34 years of age.

35 (iv) The month following twelve months of payments if disability
36 occurs at or after sixty-nine years of age.

37 (e) If the member is convicted of a criminal offense and sentenced to
38 more than six months in a jail, prison or other penal institution, the first
39 day of the month following the first thirty continuous days of the member's
40 confinement for the remainder of the confinement.

41 8. Monthly LTD program benefits are payable only for disabilities that
42 commence on or after July 1, 1988.

43 9. The minimum benefit for a member who is entitled to receive monthly
44 LTD program benefits is fifty dollars per month.

1 10. Members are eligible to receive the LTD program benefits and
2 payments described in paragraph 1 of this subsection, and the reductions
3 provided by paragraph 1 of this subsection apply even though the social
4 security benefits are not actually paid as follows:

5 (a) For primary and dependent social security benefits, the members
6 are eligible for the social security benefits until the social security
7 benefits are actually awarded, or if the social security benefits are denied,
8 until the member pursues the social security appeal process through a hearing
9 before a social security administrative law judge or until the insurance
10 company or claims administrator determines that the member is not eligible
11 for social security benefits.

12 (b) For benefits and payments from any other source provided in
13 paragraph 1 of this subsection, the members are eligible for the benefits if
14 it is reasonable to believe that those benefits will be paid on proper
15 completion of the claim or would have been paid except for the failure of the
16 member to pursue the claim in time.

17 11. A member shall be considered ~~totally disabled~~ TO HAVE A TOTAL
18 DISABILITY if based on objective medical evidence:

19 (a) During the first thirty months of a period of disability, the
20 member is unable to perform all duties of the position held by the member
21 when the member ~~became totally disabled~~ DEVELOPED A TOTAL DISABILITY.

22 (b) For a member who has received monthly LTD program benefits for
23 twenty-four months within a five-year period, the member is unable to perform
24 any work for compensation or gain for which the member is reasonably
25 qualified by education, training or experience in an amount at least equal to
26 the scheduled LTD program benefits prescribed in paragraph 1 of this
27 subsection.

28 B. A member who is eligible pursuant to article 2 of this chapter and
29 who receives monthly LTD program benefits is entitled to receive service
30 credit pursuant to article 2 of this chapter from the time disability
31 commences until LTD program benefits cease to be payable, except that for a
32 member who receives monthly LTD program benefits on or after June 30, 1999
33 the number of years of service credited to the member's retirement account
34 during the period the member receives LTD program benefit payments shall not
35 cause the member's total credited service for retirement benefits to exceed
36 the greater of thirty years or the total years of service credited to the
37 member's retirement account on the commencement of disability.

38 C. This section does not prohibit a member whose disability has been
39 established to the satisfaction of the board from relying on treatment by
40 prayer through spiritual means in accordance with the tenets and practice of
41 a recognized church, religious denomination or Native American traditional
42 medicine by a duly accredited practitioner of the church, denomination or
43 Native American traditional medicine without suffering reduction or
44 suspension of the member's monthly LTD program benefits.

1 D. ASRS may suspend or terminate benefits under this article if a
2 member fails to provide information, data, paperwork or other materials that
3 are requested by ASRS or the insurance company or claims administrator that
4 is selected by the board to administer the LTD program. If the member
5 provides the information requested, ASRS shall retroactively reinstate the
6 benefits or claim for which the member qualifies under this article.

7 E. For the purposes of this section:

8 1. "Objective medical evidence" means evidence that established facts
9 and conditions, as perceived without distortion by personal feelings,
10 prejudices or interpretations, and includes x-rays, quantitative tests,
11 laboratory findings, data, records, reports from the attending physician and
12 reports from a consulting physician, as applicable.

13 2. "Received medical treatment" means that the member consulted with
14 or received the advice of a licensed medical or dental practitioner,
15 including advice given during a routine examination, and it includes
16 situations in which the member received medical or dental care, treatment or
17 services, including the taking of drugs, medication, insulin or similar
18 substances.

19 3. "Social security" and "social security disability" includes the
20 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
21 Code sections 231 through 231u).

22 Sec. 168. Section 38-797.08, Arizona Revised Statutes, is amended to
23 read:

24 38-797.08. Errors; benefit recomputation

25 If any change or error in the records results in any member receiving
26 from the LTD program more or less than the member would have been entitled to
27 receive if the records had been correct, the board shall correct the error
28 and shall adjust the payments in a manner so that the equivalent of the
29 benefit to which the member was correctly entitled is paid. The board shall
30 correct any change or error and shall pay the appropriate monies to a member
31 or shall recover monies from the member if the member is overpaid. The board
32 shall recover monies by reducing any benefit that is otherwise payable by
33 ASRS or the LTD program to an active, inactive, ~~disabled~~ MEMBER WITH A
34 DISABILITY or retired member, survivor, contingent annuitant, beneficiary or
35 alternate payee.

36 Sec. 169. Section 38-807, Arizona Revised Statutes, is amended to
37 read:

38 38-807. Survivor pensions

39 A. The surviving spouse of a deceased retired member shall be paid a
40 surviving spouse's pension if the spouse was married to the member for a
41 period of at least two consecutive years at the time of the member's
42 death. Payment of a surviving spouse's pension commences as of the last day
43 of the month following the retired member's date of death. The last payment
44 shall be made as of the last day of the month in which the surviving spouse's
45 death occurs. For a member who becomes a member of the plan before January

1 1, 2012, the amount of pension paid a surviving spouse is equal to
 2 three-fourths of the amount of the deceased retired member's pension at the
 3 time of death. For a member who becomes a member of the plan on or after
 4 January 1, 2012, the amount of pension paid a surviving spouse is equal to
 5 one-half of the amount of the deceased retired member's pension at the time
 6 of death, except that at the time of retirement a member may elect an
 7 optional form of retirement benefit, as determined by the board, that
 8 provides for an actuarially reduced pension and an increased surviving
 9 spouse's benefit. The surviving spouse shall file a written application with
 10 the plan in order to receive the survivor benefit.

11 B. The surviving spouse of a deceased active or inactive member shall
 12 be paid a surviving spouse's pension if the spouse was married to the member
 13 on the date of the member's death. Payment of a surviving spouse's pension
 14 commences as of the last day of the month following the member's date of
 15 death. The last payment shall be made as of the last day of the month in
 16 which the surviving spouse's death occurs. For the purposes of this
 17 subsection, for a member who becomes a member of the plan before January 1,
 18 2012, the surviving spouse's pension shall be three-fourths of the amount
 19 calculated in the same manner as a disability pension is calculated pursuant
 20 to section 38-806. For a member who becomes a member of the plan on or after
 21 January 1, 2012, the surviving spouse's pension shall be one-half of the
 22 amount calculated in the same manner as a disability pension is calculated
 23 pursuant to section 38-806. The surviving spouse shall file a written
 24 application with the plan in order to receive the survivor benefit.

25 C. If the deceased retired or active or inactive member does not have
 26 an eligible surviving spouse or the pension of the eligible surviving spouse
 27 is terminated, each eligible child is entitled to receive a child's pension.
 28 A child's pension terminates if the child is adopted. In the case of a
 29 ~~disabled~~ child WITH A DISABILITY, the child's pension terminates if the child
 30 ceases to be under a disability or ceases to be a dependent of the surviving
 31 spouse or guardian. The amount of the pension of each eligible child is an
 32 equal share of the amount of the surviving spouse's pension. The surviving
 33 minor or ~~disabled~~ child's WITH A DISABILITY pension shall be paid to the
 34 person who is the legally appointed guardian or custodian of the eligible
 35 child until the eligible child reaches eighteen years of age, at which time
 36 the eligible child's pension shall be paid directly to the eligible child so
 37 long as the person remains eligible to receive the pension and is not subject
 38 to a guardianship or conservatorship due to disability or incapacity. The
 39 pension of a ~~disabled~~ child WITH A DISABILITY who is eighteen years of age or
 40 older and who is subject to a guardianship or conservatorship due to
 41 disability or incapacity shall continue to be paid to the guardian or
 42 conservator so long as the child remains eligible for the pension payment.

43 D. If a member dies and no pension is payable on account of the
 44 member's death, the deceased member's accumulated contributions shall be paid
 45 to the person or persons designated by the deceased member in writing and

1 filed with the board. If the designated person or persons do not survive the
2 deceased member, the accumulated contributions shall be paid to the estate of
3 the deceased member.

4 Sec. 170. Section 38-833, Arizona Revised Statutes, is amended to
5 read:

6 38-833. Member and employer contributions: disability

7 A. Beginning January 1, 2014, the defined contribution system is the
8 retirement program for elected officials, unless the elected official
9 continues or resumes participation in ASRS pursuant to section 38-727,
10 subsection C. Elected officials shall be enrolled in the defined
11 contribution plan established by the board pursuant to this article.

12 B. Each elected official who is a member of the defined contribution
13 system shall contribute eight per cent of the member's gross compensation by
14 salary reduction that shall be deposited in the member's annuity account.
15 Each member shall also contribute to the elected officials' defined
16 contribution retirement system disability program pursuant to article 3.2 of
17 this chapter.

18 C. Although designated as employee contributions, all member
19 contributions made to the defined contribution system shall be picked up and
20 paid by the employer in lieu of contributions by the employee. The
21 contributions picked up by an employer may be made through a reduction in the
22 member's compensation. A member participating in the defined contribution
23 system does not have the option of choosing to receive the contributed
24 amounts directly instead of the employer paying the amounts to the defined
25 contribution system. All member contributions that are picked up by the
26 employer as provided in this subsection shall be treated as employer
27 contributions under section 414(h) of the internal revenue code, shall be
28 excluded from members' gross income for federal and state income tax purposes
29 and are includable in the gross income of the members or the members'
30 beneficiaries only in the taxable year in which they are distributed.

31 D. Each employer shall annually make a contribution equal to six per
32 cent of each member's gross compensation. The pro rata share of this amount
33 shall be paid on each date that a member contribution is made and shall be
34 credited to the member's annuity account. Each employer shall also
35 contribute to the elected officials' defined contribution retirement system
36 disability program pursuant to article 3.2 of this chapter.

37 E. Member and employer contributions and earnings on those
38 contributions are immediately vested. A member may receive benefits pursuant
39 to article 3.2 of this chapter if the member ~~becomes totally disabled~~
40 DEVELOPS A TOTAL DISABILITY.

41 Sec. 171. Section 38-840.07, Arizona Revised Statutes, is amended to
42 read:

43 38-840.07. Errors; benefit recomputation

44 If any change or error in the records results in any member receiving
45 from the EODC disability program more or less than the member would have been

1 entitled to receive if the records had been correct, the board shall correct
2 the error and shall adjust the payments in a manner so that the equivalent of
3 the benefit to which the member was correctly entitled is paid. The board
4 shall correct any change or error and shall pay the appropriate monies to a
5 member or shall recover monies from the member if the member was overpaid.
6 The board shall recover monies by reducing any benefit that is otherwise
7 payable by the EODC disability program to a ~~disabled~~ member WITH A
8 DISABILITY.

9 Sec. 172. Section 38-844.06, Arizona Revised Statutes, is amended to
10 read:

11 38-844.06. Additional deferred retirement option plan
12 provisions

13 A. Except as provided by subsection B of this section, beginning on
14 the day after the date the member elects to participate in the deferred
15 retirement option plan, employee and employer contributions pursuant to
16 section 38-843 cease with respect to that member.

17 B. A member who has less than twenty years of credited service on
18 January 1, 2012 and who elects to participate in the deferred retirement
19 option plan on or after January 1, 2012, shall make employee contributions to
20 the system in the amount equal to the employee contributions calculated
21 pursuant to section 38-843.

22 C. A member who elects to participate in the deferred retirement
23 option plan and who ~~becomes disabled~~ DEVELOPS A DISABILITY during the period
24 of deferred retirement option plan participation is eligible to apply for
25 disability retirement benefits. If the application for disability retirement
26 benefits is approved by the local board:

27 1. The disability retirement benefits shall be computed using the
28 factors of credited service and average monthly benefit compensation in
29 effect the day before the effective date of the member's deferred retirement
30 option plan participation.

31 2. All amounts in the member's deferred retirement option plan
32 participation account shall be distributed pursuant to section 38-844.08.

33 D. If a member dies during the period of the member's deferred
34 retirement option plan participation, the designated beneficiary of the
35 member is entitled to receive all amounts in the member's deferred retirement
36 option plan participation account.

37 Sec. 173. Section 38-846, Arizona Revised Statutes, is amended to
38 read:

39 38-846. Death benefits

40 A. The surviving spouse of a deceased retired member shall be paid a
41 surviving spouse's pension if the spouse was married to the member for a
42 period of at least two consecutive years at the time of the member's death.
43 Payment of a surviving spouse's pension shall commence as of the last day of
44 the month following the retired member's date of death. The last payment

1 shall be made as of the last day of the month in which the surviving spouse's
2 death occurs.

3 B. The surviving spouse of a deceased member shall be paid a surviving
4 spouse's pension if the spouse was married to the member on the date of the
5 member's death. Payment of a surviving spouse's pension commences as of the
6 last day of the month following the member's date of death. The last payment
7 shall be made as of the last day of the month in which the surviving spouse's
8 death occurs.

9 C. The surviving spouse of a deceased retired member is entitled to
10 receive a monthly amount equal to four-fifths of the monthly amount of
11 pension that the decedent would have received immediately before death.

12 D. The surviving spouse of a deceased member who was not killed in the
13 line of duty or did not die from injuries suffered in the line of duty is
14 entitled to receive a monthly amount calculated in the same manner as an
15 accidental disability pension is calculated pursuant to section 38-845,
16 subsection B. The surviving spouse of a deceased member who is killed in the
17 line of duty or dies from injuries suffered in the line of duty is entitled
18 to receive a monthly amount equal to the deceased member's average monthly
19 benefit compensation less any amount payable for an eligible child under this
20 section. A member who was eligible for or receiving a temporary disability
21 pension at the time of the member's death is not deemed to be retired for the
22 purposes of this subsection. For the purposes of this subsection, "killed in
23 the line of duty" means the decedent's death was the direct and proximate
24 result of the performance of the decedent's public safety duties and does not
25 include suicide.

26 E. A surviving spouse shall file a written application with the system
27 in order to receive a survivor benefit.

28 F. If at least one eligible child is surviving at the death of a
29 member or retired member, but no surviving spouse's pension then becomes
30 payable, a guardian's or conservator's pension shall be payable to the person
31 who is serving, or who is deemed by the local board to be serving, as the
32 legally appointed guardian or custodian of the eligible child. If an
33 eligible child of a member or retired member is surviving at the member's or
34 retired member's death, the eligible child is entitled to receive a child's
35 pension payable to the person who is serving or who is deemed by the local
36 board to be serving as the legally appointed guardian or custodian of the
37 eligible child until the eligible child reaches eighteen years of age, at
38 which time the eligible child's pension shall be paid directly to the
39 eligible child if the person remains eligible to receive the pension and is
40 not subject to a guardianship or conservatorship due to disability or
41 incapacity. The pension of a ~~disabled~~ child WITH A DISABILITY who is
42 eighteen years of age or older and who is subject to a guardianship or
43 conservatorship due to disability or incapacity shall continue to be paid to
44 the guardian or conservator if the child remains eligible for the pension
45 payment. A child's pension or a guardian's or conservator's pension

1 terminates if the child is adopted. In the case of a ~~disabled~~ child WITH A
2 DISABILITY, the child's pension or the guardian's or conservator's pension
3 terminates if the child ceases to be under a disability or ceases to be a
4 dependent of the surviving spouse or guardian. The member may also direct by
5 designation to the local board that the guardian or conservator pension or
6 child's pension be paid to the trustee of a trust created for the benefit of
7 the eligible child. A guardian's or conservator's pension shall also become
8 payable if at least one eligible child is surviving when a surviving spouse's
9 pension terminates. The guardian or conservator shall file a written
10 application with the system in order to receive the guardian's or
11 conservator's pension and child's pension.

12 G. The board shall pay a guardian's or conservator's pension during
13 the same period in which a pension is payable to at least one eligible child.
14 The guardian, conservator or designated trustee is entitled to receive the
15 same monthly amount as would have been payable to the decedent's surviving
16 spouse had a surviving spouse's pension become payable on the decedent's
17 death.

18 H. Each eligible child is entitled to a monthly amount equal to
19 one-tenth of the monthly amount of pension that the deceased member or
20 retired member would have received immediately before death. The pension for
21 a child of a deceased member shall be calculated in the same manner as an
22 accidental disability is calculated pursuant to section 38-845, subsection B.
23 A deceased member shall be assumed to be retired for reasons of accidental
24 disability immediately before the member's death. If there are three or more
25 children eligible for a child's pension, a maximum of two shares of the
26 child's pension shall be payable, the aggregate of such shares to be
27 apportioned in equal measure to each eligible child.

28 I. If a member has accumulated contributions remaining in the system
29 at the date of death of the last beneficiary, a lump sum refund of such
30 accumulated contributions shall be payable to the person whom the member has
31 designated to the local board as the member's refund beneficiary, or if the
32 member's refund beneficiary is not then surviving, to the designated
33 contingent refund beneficiary, or if the designated contingent refund
34 beneficiary is not then surviving or if the surviving designated beneficiary
35 does not apply for the benefit within twelve months from the date of the
36 member's death, at the election of the local board to the person's nearest of
37 kin as determined by the local board or to the estate of the deceased member.
38 The amount of the lump sum refund shall be the remaining accumulated
39 contributions. The beneficiary or person who is claiming to be the nearest
40 of kin shall file a written application in order to receive the refund.

41 J. In calculating the right to and the amount of the surviving
42 spouse's pension, the law in effect on the date of the death of the member or
43 retired member controls, unless the law under which the member retired
44 provides for a greater benefit amount for a surviving spouse.

1 Sec. 174. Section 38-849, Arizona Revised Statutes, is amended to
2 read:

3 38-849. Limitations on receiving pension; violation;
4 classification; reemployment after severance;
5 reinstatement of service credits; reemployment of
6 retired or member with a disability; definition

7 A. If a member is convicted of, or discharged because of, theft,
8 embezzlement, fraud or misappropriation of an employer's property or property
9 under the control of the employer, the member shall be subject to restitution
10 and fines imposed by a court of competent jurisdiction. The court may order
11 the restitution or fines to be paid from any payments otherwise payable to
12 the member from the retirement system.

13 B. A person who knowingly makes any false statement or who falsifies
14 or permits to be falsified any record of the system with an intent to defraud
15 the system is guilty of a class 5 felony. If any change or error in the
16 records results in any member or beneficiary receiving from the system more
17 or less than the member or beneficiary would have been entitled to receive
18 had the records been correct, the local board shall correct such error, and
19 as far as practicable shall adjust the payments in such manner that the
20 actuarial equivalent of the benefit to which such member or beneficiary was
21 correctly entitled shall be paid. If a member is convicted of a crime
22 specified in this subsection, section 13-713 applies.

23 C. If a member who received a severance refund on termination of
24 employment pursuant to section 38-846.02 becomes reemployed with the same
25 employer within two years after the former member's termination date, the
26 member may have forfeited credited service attributable to service rendered
27 during a prior period of service as an employee restored on satisfaction of
28 each of the following conditions:

29 1. The member files with the system a written application for
30 reinstatement of forfeited credited service within ninety days after again
31 becoming an employee.

32 2. The retirement fund is paid the total amount previously withdrawn
33 pursuant to section 38-846.02 plus compound interest from the date of
34 withdrawal to the date of repayment. Interest shall be computed at the rate
35 of nine per cent for each year compounded each year from the date of
36 withdrawal to the date of repayment. Forfeited credited service shall not be
37 restored until complete payment is received by the fund.

38 3. The required payment is completed within one year after returning
39 to employee status.

40 D. If a member who received a severance refund on termination of
41 employment, as provided in section 38-846.02, is subsequently reemployed by
42 an employer, the member's prior service credits shall be cancelled and
43 service shall be credited only from the date the member's most recent
44 reemployment period commenced. However, a present active member of the
45 system who forfeited credited service, received a severance refund pursuant

1 to section 38-846.02 and becomes reemployed with the same employer two years
 2 or more after the member's termination date or becomes reemployed with
 3 another employer may elect to redeem any part of that forfeited credited
 4 service by paying into the system any amounts required pursuant to this
 5 subsection. A present active member who elects to redeem any part of
 6 forfeited credited service for which the member is deemed eligible by the
 7 board shall pay into the system the amounts previously paid or transferred to
 8 the member as a severance refund plus an amount, computed by the system's
 9 actuary that is necessary to equal the increase in the actuarial present
 10 value of projected benefits resulting from the redemption calculated using
 11 the actuarial methods and assumptions prescribed by the system's actuary. On
 12 satisfaction of this obligation the member's prior service credits shall be
 13 reinstated.

14 E. If a retired member becomes reemployed in any capacity by the
 15 employer from which the member retired before one year from the date of
 16 retirement or in the same position at any time following retirement:

17 1. The following apply:

18 (a) Within ten days after the retired member is reemployed, the local
 19 board shall advise the system in writing of the retired member's
 20 reemployment.

21 (b) The system shall not make pension payments to the retired member
 22 during the period of reemployment.

23 (c) Employee contributions shall not be made on the retired member's
 24 account, nor shall any service be credited during the period of reemployment.
 25 On subsequent termination of employment by the retired member, the retired
 26 member is entitled to receive a pension based on the member's service and
 27 compensation before the date of the member's reemployment. The employer
 28 shall pay the alternate contribution rate pursuant to section 38-843.05.

29 2. Paragraph 1, subdivisions (a) and (b) of this subsection do not
 30 apply if either:

31 (a) The retired member becomes reemployed after sixty consecutive days
 32 from the member's retirement date as a result of participating in an open
 33 competitive new hire process for an entry level, nonsupervisory position,
 34 except if the retired member is hired for the same position.

35 (b) The retired member is hired as a fire inspector or arson
 36 investigator.

37 F. If a retired member is assigned voluntary duties acting as a
 38 limited authority peace officer, pursuant to the Arizona peace officer
 39 standards and training board rules, employee contributions shall not be made
 40 on the retired member's account, and any service shall not be credited during
 41 the period of reemployment. The employer shall not pay the alternate
 42 contribution rate pursuant to section 38-843.05.

43 G. If after one year from the date of retirement a retired member
 44 becomes reemployed by the employer from which the member retired in a
 45 position other than the same position from which the member retired, employee

1 contributions shall not be made on the retired member's account, and any
2 service shall not be credited during the period of reemployment. The
3 employer shall pay the alternate contribution rate pursuant to section
4 38-843.05.

5 H. At any time following retirement, if the retired member becomes
6 employed by an employer, other than the employer from which the member
7 retired, in a position ordinarily filled by an employee of an eligible group,
8 employee contributions shall not be made on the retired member's account, and
9 any service shall not be credited during the period of reemployment. The
10 employer shall pay the alternate contribution rate pursuant to section
11 38-843.05.

12 I. If a member who retired under an accidental or ordinary disability
13 becomes reemployed as an employee of an eligible group, section 38-844
14 applies and a determination shall be made by the local board as to whether
15 subsection E, F, G or H of this section applies.

16 J. The local board shall review all reemployment determinations and
17 voluntary assignments as described in subsection F of this section. If the
18 local board or the system is not provided the necessary information required
19 by the system to make a reemployment determination, the local board and the
20 system shall suspend pension payments until information is received and a
21 determination is made regarding whether the reemployment meets the
22 requirements of subsection E, F, G, H or I of this section.

23 K. A person who defrauds the system or who takes, converts, steals or
24 embezzles monies owned by or from the system and who fails or refuses to
25 return the monies to the system on the board's written request is subject to
26 civil suit by the system in the superior court in Maricopa county. On entry
27 of an order finding the person has defrauded the system or taken, converted,
28 stolen or embezzled monies owned by or from the system, the court shall enter
29 an order against that person and for the system awarding the system all of
30 its costs and expenses of any kind, including attorney fees, that were
31 necessary to successfully prosecute the action. The court shall also grant
32 the system a judicial lien on all of the nonexempt property of the person
33 against whom judgment is entered pursuant to this subsection in an amount
34 equal to all amounts awarded to the system, plus interest at the rate
35 prescribed by section 44-1201, until all amounts owed are paid to the system.

36 L. Notwithstanding any other provision of this article, the board may
37 offset against any benefits otherwise payable by the system to an active or
38 retired member or survivor any court ordered amounts awarded to the board and
39 system and assessed against the member or survivor.

40 M. For the purposes of this section, "same position" means a position
41 in which the member performs substantially similar duties that were performed
42 and exercises substantially similar authority that was exercised by the
43 retired member before retirement.

1 Sec. 175. Section 38-886, Arizona Revised Statutes, is amended to
2 read:

3 38-886. Accidental disability retirement; total and permanent
4 disability retirement; qualification; amount of
5 pension; conditions for continued payment of pension

6 A. A member may retire and receive an accidental disability pension or
7 a total and permanent disability pension if the local board finds that all of
8 the following conditions occur:

9 1. An application for disability retirement is filed with the
10 retirement plan or the local board by either the member or the member's
11 participating employer after the disabling incident or within one year after
12 the date the member ceases to be an employee and the member's employment is
13 terminated by reason of accidental disability or total and permanent
14 disability. Timely application for an accidental or a total and permanent
15 disability pension is a prerequisite to receipt of the pension.

16 2. The member undergoes all medical examinations and tests ordered by
17 the local board and releases to the local board all medical reports and
18 records requested by the local board.

19 3. The local board determines that an accidental disability or total
20 and permanent disability condition exists that meets the requirements for
21 accidental disability retirement or total and permanent disability
22 retirement.

23 B. The effective date of an accidental disability retirement or a
24 total and permanent disability retirement shall not predate the date of
25 disability or the date the member ceases to be an employee, and the
26 disability pension payments shall not violate section 38-895.02.

27 C. The amount of an accidental disability pension or a total and
28 permanent disability pension is equal to fifty per cent of the member's
29 average monthly salary or the amount computed using the member's average
30 monthly salary and the member's actual years of credited service, whichever
31 is higher.

32 D. The local board may require a ~~disabled~~ retired member **WITH A**
33 **DISABILITY** to undergo periodic reevaluation of the continuation of accidental
34 disability or total and permanent disability. If the ~~disabled~~ retired member
35 **WITH A DISABILITY** refuses to submit to reevaluation, the local board may
36 suspend payment of the pension. If the refusal continues for one year, the
37 local board may revoke the ~~disabled~~ retired member's **WITH A DISABILITY** rights
38 to the pension. An accidental disability pension or a total and permanent
39 disability pension is terminated if the local board finds the retired member
40 no longer meets the requirements for accidental disability retirement or
41 total and permanent disability retirement. This subsection does not apply
42 after a ~~disabled~~ retired member **WITH A DISABILITY** reaches the member's normal
43 retirement date. The amount of a disability pension shall not be recomputed
44 at a ~~disabled~~ retired member's **WITH A DISABILITY** normal retirement date.

1 E. A member does not qualify for an accidental disability pension or a
2 total and permanent disability pension if the local board determines that the
3 member's disability results from any of the following:

4 1. An injury suffered while engaged in a felonious criminal act or
5 enterprise.

6 2. Service in the armed forces of the United States that entitles the
7 member to a veteran's disability pension.

8 3. A physical or mental condition or injury that existed or occurred
9 before the member's date of membership in the plan.

10 F. Local boards shall base a finding of total and permanent disability
11 and accidental disability on medical evidence obtained by a designated
12 physician or a physician working in a clinic that is selected by the local
13 board and shall disregard any other medical evidence or opinions. If the
14 local board retains more than one physician in connection with any case, the
15 local board shall resolve any material conflicts in the medical evidence that
16 is presented by the local board's designated physicians or clinics.

17 G. If an accidental disability ceases before a retired member reaches
18 the member's normal retirement date and the member is reemployed by an
19 employer under the plan, the pension payable on the member's subsequent
20 retirement shall be determined as provided in section 38-885.

21 Sec. 176. Section 38-886.01, Arizona Revised Statutes, is amended to
22 read:

23 38-886.01. Ordinary disability retirement; qualifications;
24 amount of pension; conditions for continued
25 payment of pension; definition

26 A. A member may retire and receive an ordinary disability pension if
27 the local board finds that all of the following conditions occur:

28 1. An application for disability retirement is filed with the
29 retirement plan or the local board by either the member or the member's
30 participating employer after the disabling incident or within one year after
31 the date the member ceases to be an employee and the member's employment is
32 terminated before the member's normal retirement date by reason of ordinary
33 disability. Timely application for an ordinary disability pension is a
34 prerequisite to receipt of the pension.

35 2. The member undergoes all medical examinations and tests ordered by
36 the local board and releases to the local board all medical reports and
37 records requested by the local board.

38 3. The local board determines that an ordinary disability condition
39 exists that meets the requirements for an ordinary disability.

40 4. The member is not participating in the reverse deferred retirement
41 option plan pursuant to section 38-885.01.

42 B. The effective date of an ordinary disability retirement shall not
43 predate the date of disability or the date the member ceases to be an
44 employee, and the disability pension payments shall not violate section
45 38-895.02.

1 C. Except for a full-time dispatcher or a person who becomes a member
 2 of the plan on or after January 1, 2012, the amount of an ordinary disability
 3 pension is equal to a fraction times the member's normal retirement pension
 4 that is computed pursuant to section 38-885, subsection C as if the member
 5 had twenty years of credited service. The fraction is the result obtained by
 6 dividing the member's actual years of credited service, not to exceed twenty
 7 years of credited service, by twenty. For a full-time dispatcher or a person
 8 who becomes a member of the plan on or after January 1, 2012, the amount of
 9 an ordinary disability pension is equal to a fraction times the member's
 10 normal retirement pension that is computed pursuant to section 38-885,
 11 subsection C or E as if the member had twenty-five years of credited service.
 12 The fraction is the result obtained by dividing the member's actual years of
 13 credited service, not to exceed twenty-five years of credited service, by
 14 twenty-five.

15 D. The local board may require a ~~disabled~~ retired member WITH A
 16 DISABILITY to undergo periodic reevaluation of the continuation of ordinary
 17 disability. If the ~~disabled~~ retired member WITH A DISABILITY refuses to
 18 submit to reevaluation, the local board may suspend payment of the
 19 pension. If the refusal continues for one year, the local board may revoke
 20 the ~~disabled~~ retired member's WITH A DISABILITY rights to the pension. An
 21 ordinary disability pension is terminated if the local board finds the
 22 retired member no longer meets the requirements for ordinary disability
 23 retirement. This subsection does not apply after a ~~disabled~~ retired member
 24 WITH A DISABILITY reaches the member's normal retirement date. The amount of
 25 a disability pension shall not be recomputed at a ~~disabled~~ retired member's
 26 WITH A DISABILITY normal retirement date.

27 E. A member does not qualify for an ordinary disability pension if the
 28 local board determines that the member's disability results from any of the
 29 following:

30 1. An injury suffered while engaged in a felonious criminal act or
 31 enterprise.

32 2. Service in the armed forces of the United States that entitles the
 33 member to a veteran's disability pension.

34 3. A physical or mental condition or injury that existed or occurred
 35 before the member's date of membership in the plan.

36 F. Local boards shall base a finding of ordinary disability on medical
 37 evidence that is obtained by a designated physician or a physician working in
 38 a clinic selected by the local board and shall disregard any other medical
 39 evidence or opinions. If the local board retains more than one physician or
 40 clinic in connection with the application, the local board shall resolve any
 41 material conflicts presented in the medical evidence that is presented by the
 42 designated physicians or clinics.

43 G. If an ordinary disability ceases before a retired member reaches
 44 the member's normal retirement date and the member is reemployed by an

1 employer under the plan, the pension payable on the member's subsequent
2 retirement shall be determined as provided in section 38-885.

3 H. For the purposes of this section, "ordinary disability" means a
4 physical condition that the local board determines will prevent an employee
5 from totally and permanently performing a reasonable range of duties within
6 the employee's department or a mental condition that the local board
7 determines will prevent an employee from totally and permanently engaging in
8 any substantial gainful activity.

9 Sec. 177. Section 38-904, Arizona Revised Statutes, is amended to
10 read:

11 38-904. Death benefits; amount

12 A. If an active or inactive member dies and no pension is payable on
13 account of the member's death, an amount equal to two times the member's
14 accumulated contributions to the retirement plan is payable to the person
15 designated by the deceased member in writing and filed with the board. If
16 the designated person or persons do not survive the deceased member or if the
17 designated person does not claim the benefit, the payment is payable, at the
18 election of the local board, to the designated person's nearest of kin as
19 determined by the local board or to the estate of the deceased member. The
20 beneficiary or person who is claiming to be the nearest of kin shall file a
21 written application in order to receive the refund. For the purposes of this
22 subsection, "inactive member" means a person who previously made
23 contributions to the plan, who has not retired, who is not currently making
24 contributions to the plan and who has not withdrawn contributions from the
25 plan.

26 B. If the deceased retired or active member does not have an eligible
27 surviving spouse or the pension of the eligible surviving spouse is
28 terminated, each eligible child is entitled to a child's pension. A child's
29 pension terminates if the child is adopted. In the case of a ~~disabled~~
30 **WITH A DISABILITY**, the child's pension terminates if the child ceases to be
31 under a disability or ceases to be a dependent of the surviving spouse or
32 guardian. The amount of the pension of each eligible child is an equal share
33 of the amount of the surviving spouse's pension. The board shall pay the
34 surviving minor or ~~disabled~~ child's **WITH A DISABILITY** pension to the person
35 who is the legally appointed guardian or custodian of the eligible child
36 until the eligible child reaches eighteen years of age, at which time the
37 eligible child's pension shall be paid directly to the eligible child if the
38 person remains eligible to receive the pension and is not subject to a
39 guardianship or conservatorship due to disability or incapacity. The pension
40 of a ~~disabled~~ child **WITH A DISABILITY** who is eighteen years of age or older
41 and who is subject to a guardianship or conservatorship due to disability or
42 incapacity shall continue to be paid to the guardian or conservator if the
43 child remains eligible for the pension payment.

1 Sec. 178. Section 38-956, Arizona Revised Statutes, is amended to
2 read:

3 38-956. Defined contribution plan; eligibility; contribution;
4 vesting

5 A. Except as provided in subsection B of this section, an employee of
6 this state or a political subdivision of this state shall be enrolled in the
7 plan established by ASRS pursuant to section 38-955 if all of the following
8 apply:

9 1. The employee is hired on or after ~~the effective date of this~~
10 ~~section~~ SEPTEMBER 13, 2013.

11 2. The employee is not eligible for the Arizona state retirement
12 system pursuant to article 2 of this chapter because the employee is not
13 included in agreements providing for the employee's coverage under the
14 federal old age and survivors insurance system.

15 3. The employee is not eligible for a statewide retirement system or
16 plan pursuant to article 3, 4 or 6 of this chapter because the employee does
17 not meet the definition of a member in those systems or plans.

18 4. The employee is engaged to work at least twenty weeks in each
19 fiscal year and at least twenty hours each week.

20 B. A retired member of a statewide retirement system or plan pursuant
21 to article 3, 4, or 6 of this chapter who meets the requirements of
22 subsection A of this section may be enrolled in the plan established by ASRS
23 pursuant to section 38-955 at the employer's option.

24 C. Each employee shall contribute one-half of the total ASRS normal
25 cost plus one and one-half per cent of the employee's compensation, as
26 defined in section 38-711, by salary reduction that shall be deposited in the
27 employee's retirement savings account. Each employer shall contribute
28 one-half of the total ASRS normal cost plus one and one-half per cent of the
29 employee's compensation, as defined in section 38-711, that shall be
30 deposited in the employee's retirement savings account. Employee and
31 employer contributions and earnings on those contributions are immediately
32 vested.

33 D. Each employee and employer shall also contribute to the long-term
34 disability program pursuant to article 2.1 of this chapter. An employee may
35 receive benefits pursuant to article 2.1 of this chapter if the employee
36 ~~becomes totally disabled~~ DEVELOPS A TOTAL DISABILITY.

37 E. Notwithstanding the requirements of subsection A of this section,
38 an employee shall not be enrolled under this section if the employee has
39 entered into an agreement with the employer that requires participation in an
40 alternative retirement plan or for other compensation provided in lieu of
41 retirement benefits. The agreement shall specify that it is irrevocable for
42 the remainder of the employee's employment with the employer and shall be
43 executed within two years of initial eligibility under this section.

1 Sec. 179. Section 40-113, Arizona Revised Statutes, is amended to
2 read:

3 40-113. Consumer outreach and education

4 A. In order to transition to competition for electric generation
5 service, the commission's authority is confirmed to develop and oversee a
6 comprehensive public education program regarding electric generation service
7 competition. The program may do the following:

8 1. Educate retail electric customers about the changes in the electric
9 industry.

10 2. Provide retail electric customers with accurate and unbiased
11 information so that retail electric customers may make informed choices when
12 participating in the competitive electric generation service market.

13 3. Encourage public participation in the decision making process
14 relating to establishing a competitive electric industry.

15 B. The commission may work with interested parties, including
16 community based consumer advocate organizations, to develop and implement an
17 outreach and education plan. This plan may include:

18 1. The dissemination of information by interactive approaches,
19 brochures or other written materials and mass media outlets.

20 2. An explanation in clear and plain language of the basic concepts of
21 competitive electric generation service including the following issues:

22 (a) The effects of competitive electric generation service on retail
23 electric customers and consumer programs.

24 (b) The basic responsibilities and risks retail electric customers
25 assume with competitive electric generation service.

26 (c) The basic criteria for selecting a retail electricity supplier or
27 provider of other services.

28 (d) Where the retail electric customer can find information on
29 consumer protection, customer complaints and dispute resolution programs.

30 (e) The resources available for additional information including a
31 toll free telephone number.

32 3. Publicized public forums conducted in several geographical areas of
33 this state to obtain public input and provide opportunities for exchange of
34 questions and answers.

35 4. Targeted efforts to reach rural, low income, elderly, non-English
36 speaking, ~~disabled~~ PERSONS WITH DISABILITIES, minorities and at-risk
37 populations.

38 Sec. 180. Section 40-335, Arizona Revised Statutes, is amended to
39 read:

40 40-335. Persons who may be given free or reduced rates;
41 definitions; carriage during emergency; annual report
42 of reduced rate carriage

43 A. No common carrier shall, directly or indirectly, issue, give or
44 tender any free or reduced rate of transportation for passengers between
45 points within this state, except to:

- 1 1. Its employees, its officers, agents, surgeons, physicians,
2 attorneys at law, and their families.
- 3 2. Members of the police and fire departments in cities and towns when
4 on duty, whether uniformed or not.
- 5 3. Ministers of religion, traveling secretaries of railroad young
6 men's christian association, inmates of hospitals and charitable institutions
7 and persons exclusively engaged in charitable work.
- 8 4. Indigent and homeless persons, when transported by charitable
9 societies or hospitals, and to the necessary agents employed in such
10 transportation.
- 11 5. Inmates of the homes for soldiers, including those about to enter
12 and those returning after discharge, and to the boards of managers of such
13 homes.
- 14 6. Necessary caretakers of livestock, poultry, milk and fruit while in
15 transit.
- 16 7. Employees on sleeping cars, ~~AND~~ express cars, and to linemen of
17 telegraph and telephone corporations.
- 18 8. Railway mail service employees, post office, custom and immigration
19 inspectors.
- 20 9. Newsboys on trains, baggage agents, ~~AND~~ witnesses attending any
21 legal investigation in which the common carrier is interested.
- 22 10. Persons injured in wrecks and physicians and nurses attending such
23 persons.
- 24 B. As used in this section:
 - 25 1. "Employee" includes furloughed or pensioned employees and persons
26 who ~~became disabled~~ DEVELOPED A DISABILITY or infirm in the service of the
27 carrier, and the remains of a person killed in the employment of the carrier,
28 and former employees traveling to re-enter the service of the carrier.
 - 29 2. "Families" includes the families of those persons excepted, also
30 the families of persons killed, widows during widowhood, and minor children
31 during minority, of persons who died while in the service of such common
32 carrier.
- 33 C. This section shall not be construed to prohibit the interchange of
34 passes for the officers, agents and employees of common carriers and their
35 families, nor to prohibit any common carrier from carrying passengers free to
36 provide relief in cases of general epidemic, pestilence, or other emergency
37 situation.
- 38 D. With the consent of the commission, every common carrier may
39 transport free, or at reduced rates:
 - 40 1. Former soldiers and sailors for the purpose of attending any
41 convention.
 - 42 2. Contractors and their employees, material or supplies, engaged or
43 used in construction, operation or maintenance work, on the line of the
44 issuing carrier, to the extent only that such free or reduced rate
45 transportation is provided for in the specifications upon which the contract

1 is based and in the contract itself. Common carriers may also enter into
2 contracts with each other for an exchange of service.

3 E. Every common carrier shall on the first Monday in July each year,
4 and at other times required by the commission, file with the commission a
5 verified list of all tickets, passes or reduced rate transportation issued
6 for other than actual bona fide money consideration at full established rates
7 during the preceding year, together with the names of the recipients thereof,
8 the amount received therefor, and the reason for issuing them.

9 Sec. 181. Section 41-151.07, Arizona Revised Statutes, is amended to
10 read:

11 41-151.07. Library development services

12 The state library shall:

- 13 1. Direct and coordinate statewide public library services.
- 14 2. Encourage and assist the development of library services in state
15 and local institutions and governmental units.
- 16 3. Compile and disseminate statistics and other data relating to
17 libraries and library services.
- 18 4. Give professional advice and assistance in the establishment and
19 operation of county free libraries, municipal or other libraries, or any
20 combinations of county free and municipal or other libraries, and to joint
21 ventures of public and private or nonprofit libraries in this state that make
22 library information available to the public and that request such
23 professional advice and assistance.
- 24 5. Develop library services for the blind and ~~physically disabled~~
25 **PERSONS WITH PHYSICAL DISABILITIES** regardless of the type of technology used.
- 26 6. Perform all other duties necessary or appropriate to the
27 development of statewide library services.

28 Sec. 182. Section 41-621, Arizona Revised Statutes, is amended to
29 read:

30 41-621. Purchase of insurance; coverage; limitations;
31 exclusions; definitions

32 A. The department of administration shall obtain insurance against
33 loss, to the extent it is determined necessary and in the best interests of
34 the state as provided in subsection F of this section, on the following:

- 35 1. All state owned buildings, including those of the universities,
36 excluding buildings of community colleges, whether financed in whole or in
37 part by state monies or buildings in which the state has an insurable
38 interest as determined by the department of administration.
- 39 2. Contents in any buildings owned, leased or rented, in whole or in
40 part, by or to the state, excluding buildings of community colleges, and
41 reported to the department of administration.
- 42 3. The state and its departments, agencies, boards and commissions and
43 all officers, agents and employees thereof and such others as may be
44 necessary to accomplish the functions or business of the state and its
45 departments, agencies, boards and commissions against liability for acts or

1 omissions of any nature while acting in authorized governmental or
2 proprietary capacities and in the course and scope of employment or
3 authorization except as prescribed by this chapter.

4 4. All personal property reported to the department of administration,
5 including vehicles and aircraft owned by the state and its departments,
6 agencies, boards and commissions and all non-owned personal property which is
7 under the clear responsibility of this state because of written leases or
8 other written agreements.

9 5. The state and its departments, agencies, boards and commissions
10 against casualty, use and occupancy and liability losses of every nature
11 except as prescribed by this chapter.

12 6. Workers' compensation and employers' liability insurance.

13 7. Design and construction of buildings, roads, environmental
14 remediations and other construction projects.

15 8. Other exposures to loss where insurance may be required to protect
16 this state and its departments, agencies, boards and commissions and all
17 officers, agents and employees acting in the course and scope of employment
18 or authorization except as prescribed by this chapter.

19 B. To the extent it is determined necessary and in the best interests
20 of the state, the department of administration shall obtain insurance or
21 provide for state self-insurance against property damage caused by clients
22 and liability coverage resulting from the direct or incidental care of
23 clients participating in programs of the state and its departments, agencies,
24 boards or commissions relating to custodial care. The insurable programs
25 shall include foster care, programs for the ~~developmentally disabled~~ **PERSONS**
26 **WITH DEVELOPMENTAL DISABILITIES**, an independent living program pursuant to
27 section 8-521 and respite-sitter service programs. The department shall
28 obtain insurance or provide for state self-insurance pursuant to this
29 subsection to protect the clients participating in these programs and
30 individual providers of these program services on behalf of the state and its
31 departments, agencies, boards or commissions. The insurance provided under
32 this subsection does not include medical or workers' compensation coverage
33 for providers. The department may include in its annual budget request
34 pursuant to section 41-622, subsection D a charge for the insurance or
35 self-insurance provided in this subsection. To assist in carrying out the
36 provisions of this subsection, the department shall establish a seven member
37 advisory board in accordance with the following provisions:

38 1. The board shall consist of three members appointed by the director
39 of the department of administration, at least one of whom shall be a foster
40 parent, two members appointed by the director of the department of economic
41 security, one member appointed by the director of the state department of
42 corrections, and one member appointed by the administrative director of the
43 courts.

44 2. The board shall elect a chairman from among its members.

1 3. The board shall hold at least two meetings a year or shall meet at
2 the call of the chairman.

3 4. Board members shall serve for three year terms.

4 5. Board members are not eligible to receive compensation but are
5 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
6 article 2.

7 6. The board shall provide advice to the department regarding coverage
8 and administration of the provisions of this subsection and shall assist the
9 department in coordinating its activities pursuant to this subsection with
10 state departments, agencies, boards and commissions.

11 C. The department of administration may obtain insurance against loss,
12 to the extent it is determined necessary and in the best interests of the
13 state as provided in subsection F of this section for the professional
14 liability of individual physicians and psychiatrists who provide services
15 under a contract with the state department of corrections. Coverage is
16 limited to acts and omissions committed inside a state department of
17 corrections facility while in the performance of the contract and to
18 individual physicians and psychiatrists who demonstrate to the satisfaction
19 of the state department of corrections that they cannot otherwise obtain
20 professional liability coverage for the services required by the contract.
21 The director of the department of administration may impose on the state
22 department of corrections a deductible for each loss that arises out of a
23 professional liability claim pursuant to this subsection. Any changes in
24 deductible amounts established by the director shall be subject to review by
25 the joint legislative budget committee.

26 D. The department of administration may obtain property, liability,
27 disability or workers' compensation insurance, self-insure or develop risk
28 retention pools to provide for payment of property loss or casualty claims or
29 disability insurance claims against contractors of this state with the
30 approval of the joint legislative budget committee. With respect to
31 insurance, self-insurance or risk retention pools for contractors licensed
32 and contracted to do work for this state, the coverage afforded applies with
33 respect to the conduct of the business entity of that contractor. The pool
34 is available to all contractors regardless of the amount that the state
35 contracted work bears in relation to the amount of nonstate contracted work.
36 The contractor shall be terminated from the pool if the contractor ceases to
37 be a state contractor.

38 E. The department of administration may determine, in the best
39 interests of the state, that state self-insurance is necessary or desirable
40 and, if that decision is made, shall provide for state self-insurance for
41 losses arising out of state property, liability or workers' compensation
42 claims prescribed by subsection A of this section. If the department of
43 administration provides state self-insurance, such coverage shall be excess
44 over any other valid and collectible insurance. The director of the
45 department of administration may impose on state departments, agencies,

1 boards and commissions a deductible for each loss that arises out of a
2 property, liability or workers' compensation loss pursuant to this
3 subsection. Any changes in deductible amounts established by the director
4 shall be subject to review by the joint legislative budget committee.

5 F. In carrying out the provisions of this chapter, the department of
6 administration shall establish and provide the state with some or all of the
7 necessary risk management services, or shall contract for risk management
8 services pursuant to chapter 23 of this title, as the director of the
9 department of administration deems necessary in the best interest of the
10 state, and may, in addition to other specifications of such coverage as
11 deemed necessary, determine self-insurance to be established. The provisions
12 of chapter 23 of this title shall not apply to the department of
13 administration's procurement of insurance to cover losses arising out of
14 state property or liability claims prescribed in subsections A and D of this
15 section or excess loss insurance for the state's workers' compensation
16 liability for individual or aggregate claims, or both, in such amounts and at
17 such primary retention levels as the department of administration deems in
18 the best interest of the state. In purchasing insurance to cover losses
19 arising out of state property or liability claims prescribed by subsection A
20 of this section, the department of administration is not subject to the
21 provisions of title 20, chapter 2, article 5.

22 G. No successful bidder for risk management services pursuant to this
23 section shall be entitled to receive directly or indirectly any sales
24 commission, contingent commission, excess profit commission, or other
25 commissions, or anything of value, as payment for the risk management
26 services except those amounts received directly from this state as payment
27 for the risk management services.

28 H. The department of administration shall pay for purchased risk
29 management services, premiums for insurance on state property and state
30 liability and workers' compensation pursuant to the provisions of this
31 chapter.

32 I. A state officer, agent or employee acting in good faith, without
33 wanton disregard of his statutory duties and under the authority of an
34 enactment that is subsequently declared to be unconstitutional, invalid or
35 inapplicable, is not personally liable for an injury or damage caused thereby
36 except to the extent that he would have been personally liable had the
37 enactment been constitutional, valid and applicable.

38 J. A state officer, agent or employee, except as otherwise provided by
39 statute, is not personally liable for an injury or damage resulting from his
40 act or omission in a public official capacity where the act or omission was
41 the result of the exercise of the discretion vested in him if the exercise of
42 the discretion was done in good faith without wanton disregard of his
43 statutory duties.

1 K. The state and its departments, agencies, boards and commissions are
2 immune from liability for losses arising out of a judgment for willful and
3 wanton conduct resulting in punitive or exemplary damages.

4 L. The following exclusions shall apply to subsections A, B and E of
5 this section:

6 1. Losses against this state and its departments, agencies, boards and
7 commissions that arise out of and are directly attributable to an act or
8 omission determined by a court to be a felony by a person who is provided
9 coverage pursuant to this article unless the state knew of the person's
10 propensity for that action, except those acts arising out of the operation or
11 use of a motor vehicle.

12 2. Losses arising out of contractual breaches.

13 M. If self-insurance coverage is determined to exist, the attorney
14 general, with funds provided by the department of administration, shall
15 provide for the defense, either through his office or by appointment of
16 outside legal counsel, of the state and its departments, agencies, boards and
17 commissions and all officers, agents and employees thereof and such others as
18 are insured by the department of administration for or on account of their
19 acts or omissions covered pursuant to this chapter. All state departments,
20 agencies, boards and commissions, all officers, agents and employees thereof
21 and such others as are insured by the department of administration shall
22 cooperate fully with the attorney general and department of administration in
23 the defense of claims arising pursuant to this chapter.

24 N. A claim for liability damages made pursuant to this chapter may be
25 settled and payment made up to the amount of twenty-five thousand dollars or
26 such higher limit as may be established by the joint legislative budget
27 committee with the approval of the director of the department of
28 administration. A claim over the amount of twenty-five thousand dollars up
29 to fifty thousand dollars or such higher limit as may be established by the
30 joint legislative budget committee may be settled and payment made with the
31 approval of the director of the department of administration and the attorney
32 general. Any claim over the amount of fifty thousand dollars or such higher
33 limit as may be established by the joint legislative budget committee may be
34 settled and payment made with the approval of the director of the department
35 of administration, the attorney general and the joint legislative budget
36 committee. If it is in the best interest of this state, the joint
37 legislative budget committee may establish higher settlement limits. Any
38 settlements involving amounts in excess of fifty thousand dollars or such
39 higher limit as may be established by the joint legislative budget committee
40 shall be approved by the department of administration, the attorney general
41 and the joint legislative budget committee pursuant to the authority granted.
42 The settlement of liability claims shall be solely the authority of the
43 department of administration, the attorney general and the joint legislative
44 budget committee. No state department, agency, board or commission or any
45 officer, agent or employee of this state may voluntarily make any payment,

1 assume any obligation, incur any expense or maintain the individual right of
2 consent for liability claims made pursuant to this chapter except as provided
3 by this section.

4 O. Neither the authority provided by this section to insure, nor the
5 exercise of such authority, shall:

6 1. Impose any liability on this state or the departments, agencies,
7 boards and commissions or any officers, agents and employees of this state
8 unless such liability otherwise exists.

9 2. Impair any defense this state or the departments, agencies, boards
10 and commissions or any officers, agents and employees of this state otherwise
11 may have.

12 P. The department of administration shall pay, on behalf of any state
13 officer, agent or employee, any damages, excluding punitive damages, for
14 which the officer, agent or employee becomes legally responsible if the acts
15 or omissions resulting in liability were within the officer's, agent's or
16 employee's course and scope of employment. The department of administration
17 may pay for all damages however designated which the officer, agent or
18 employee becomes legally responsible for if the acts or omissions resulting
19 in liability are determined by the director of the department of
20 administration to be within the person's course and scope of employment.

21 Q. The department of administration shall adopt such rules as are
22 deemed necessary to carry out, implement and limit the provisions of this
23 chapter.

24 R. For the purposes of determining whether a state officer, agent or
25 employee is entitled to coverage under this chapter, "within the course and
26 scope of employment or authorization" means:

27 1. The acts or omissions that the state officer, agent or employee is
28 employed or authorized to perform.

29 2. The acts or omissions of the state officer, agent or employee occur
30 substantially within the authorized time and space limit.

31 3. The acts or omissions are activated at least in part by a purpose
32 to serve this state or its departments, agencies, boards or commissions.

33 S. To the extent it is determined necessary and in the best interest
34 of this state, the department of administration may obtain design and
35 construction insurance or provide for self-insurance against property damage
36 caused by this state, its departments, agencies, boards and commissions and
37 all officers and employees of this state in connection with the construction
38 of public works projects. Workers' compensation liability insurance may be
39 purchased to cover both general contractors and subcontractors doing work on
40 a specific contracted work site. The department may include in its annual
41 budget request, pursuant to section 41-622, subsection D, the cost of the
42 insurance purchased or provided. In connection with the construction of
43 public works projects, the department of administration may also use an
44 owner-controlled or wrap-up insurance program if all of the following
45 conditions are met:

1 1. The total cost of the project is over fifty million dollars.
2 2. The program maintains completed operations coverage for a term
3 during which coverage is reasonably commercially available as determined by
4 the director of the department of insurance, but in no event for less than
5 three years.
6 3. Bid specifications clearly specify for all bidders the insurance
7 coverage provided under the program and the minimum safety requirements that
8 shall be met.
9 4. The program does not prohibit a contractor or subcontractor from
10 purchasing any additional insurance coverage that a contractor believes is
11 necessary for protection from any liability arising out of the contract. The
12 cost of the additional insurance shall not be passed through to this state on
13 a contract bid.
14 5. The program does not include surety insurance.
15 T. The state may purchase an owner-controlled or wrap-up policy that
16 has a deductible or self-insured retention as long as the deductible or
17 self-insured retention does not exceed one million dollars.
18 U. For the purposes of subsections S and T of this section:
19 1. "Owner-controlled or wrap-up insurance" means a series of insurance
20 policies issued to cover this state and all of the contractors,
21 subcontractors, architects and engineers on a specified contracted work site
22 for purposes of general liability, property damage and workers' compensation.
23 2. "Specific contracted work site" means construction being performed
24 at one site or a series of contiguous sites separated only by a street,
25 roadway, waterway or railroad right-of-way, or along a continuous system for
26 the provision of water and power.
27 V. Notwithstanding any other statute the department of administration
28 may:
29 1. Limit the liability of a person who contracts to provide goods,
30 software or other services to this state.
31 2. Allow the person to disclaim incidental or consequential damages.
32 3. Indemnify or hold harmless any party to the contract.
33 Sec. 183. Section 41-901, Arizona Revised Statutes, is amended to
34 read:
35 41-901. Governor's authority
36 The governor shall have charge and control of the Arizona pioneers'
37 home, the state hospital for ~~disabled~~ miners WITH DISABILITIES, the state
38 prison and prison farm and other state institutions the management of which
39 is not otherwise provided by law.
40 Sec. 184. Section 41-921, Arizona Revised Statutes, is amended to
41 read:
42 41-921. Establishing home; location
43 A home for aged and infirm Arizona pioneers is established and shall be
44 known as the "Arizona pioneers' home". For purposes prescribed in section 25
45 of the enabling act, the pioneers' home shall be designated as the hospital

1 for ~~disabled~~ miners WITH DISABILITIES and shall have the same exemption
2 provided to the pioneers' home pursuant to section 36-402. The home shall be
3 maintained at or near Prescott, Arizona.

4 Sec. 185. Section 41-941, Arizona Revised Statutes, is amended to
5 read:

6 41-941. Location; superintendent; claims

7 A. There shall be a state hospital for ~~disabled~~ miners WITH
8 DISABILITIES as a separate facility for the benefit of ~~disabled~~ miners WITH
9 DISABILITIES at the Arizona pioneers' home at Prescott which shall be managed
10 by the governor.

11 B. The superintendent of the Arizona pioneers' home shall serve as
12 superintendent of the miner's hospital and, subject to chapter 4, article 4
13 of this title, may appoint assistants and employees and prescribe their
14 duties, subject to approval of the governor.

15 C. Claims for salaries and expenses authorized by this article shall
16 be presented and paid as other state claims.

17 Sec. 186. Section 41-942, Arizona Revised Statutes, is amended to
18 read:

19 41-942. Qualifications for admission to hospital; definitions

20 A. A person, under the order of the governor, shall be admitted to the
21 hospital for ~~disabled~~ miners WITH DISABILITIES who:

22 1. Has been a resident while in the occupation of mining in this
23 state.

24 2. Is a citizen or legal resident of the United States.

25 3. Has reached the age of sixty years or more, and is financially
26 unable to support himself, or has suffered incapacitating injuries arising
27 from and in the course of mining.

28 B. Based on available space and funding, the governor may approve a
29 person for admission to the hospital for ~~disabled~~ miners WITH DISABILITIES
30 who has not yet reached the age of sixty years but otherwise qualifies for
31 admission under subsection A.

32 C. For the purposes of this section:

33 1. "Claim" has the same meaning prescribed in section 27-301.

34 2. "Mine" has the same meaning prescribed in section 27-301.

35 3. "Mining":

36 (a) Has the same meaning prescribed in section 27-301.

37 (b) Does not include performing executive, administrative, support or
38 clerical functions for the owner or operator of a mine, unless a person who
39 performs executive, administrative, support or clerical functions for the
40 owner or operator of the mine had significant environmental exposure to
41 mining activities, ~~—~~ that could be detrimental to a person's health.

42 (c) Does not include activities performed by an owner of a private
43 mining claim who did not actually work the claim.

1 Sec. 187. Section 41-983.02, Arizona Revised Statutes, is amended to
2 read:

3 41-983.02. Arizona arts program

4 A. There is established an Arizona arts program to be administered by
5 the Arizona commission on the arts. The purpose of the program shall be to
6 advance and to foster the arts in Arizona through grants from the Arizona
7 arts trust fund.

8 B. The commission shall establish rules for the administration of the
9 program including grant applications and criteria to be utilized when
10 evaluating applications. Such criteria shall include but shall not be
11 limited to artistic quality, creativity, potential public exposure and public
12 benefit, and the ability of the recipient to properly administer funds
13 granted. The commission shall further establish criteria to assure all of
14 the following:

15 1. A portion of the funds is granted to organizations representing
16 ~~handicapped~~ persons WITH DISABILITIES.

17 2. A portion of the funds is granted to artists who are members of
18 racial or ethnic minorities.

19 3. A portion of the funds is granted to organizations representing
20 rural areas.

21 4. Recipient arts organizations include on their governing boards
22 members of racial or ethnic minorities.

23 C. All grants shall be authorized by a majority vote of the members of
24 the commission.

25 D. Each grant recipient shall submit a detailed report at least
26 annually to the commission outlining the uses and expenditure of any funds
27 granted from the Arizona arts trust fund. Recipients shall agree to any
28 auditing requirements relating to the use of grant funds as set forth by the
29 commission.

30 Sec. 188. Section 41-1481, Arizona Revised Statutes, is amended to
31 read:

32 41-1481. Filing charges; investigation; findings; conciliation;
33 compliance proceedings; appeals; attorney fees;
34 violation; classification

35 A. A charge under this section shall be filed within one hundred
36 eighty days after the alleged unlawful employment practice occurred. A
37 charge is deemed filed upon receipt by the division from or on behalf of a
38 person claiming to be aggrieved or, if filed by a member of the division,
39 when executed by such member upon oath or affirmation. A charge is deemed
40 filed by or on behalf of a person claiming to be aggrieved if received from
41 the United States equal employment opportunity commission. A charge shall be
42 in writing upon oath or affirmation and shall contain such information,
43 including the date, place and circumstances of the alleged unlawful
44 employment practice, and be in such form as the division requires. Charges
45 shall not be made public by the division.

1 B. Whenever a charge is filed by or on behalf of a person claiming to
 2 be aggrieved or by a member of the division, referred to as the charging
 3 party, alleging that an employer, employment agency, labor organization or
 4 joint labor-management committee controlling apprenticeship or other training
 5 or retraining programs, including on-the-job training programs, has engaged
 6 in an unlawful employment practice, the division shall serve notice of and a
 7 copy of the charge on such employer, employment agency, labor organization or
 8 joint labor-management committee, referred to as the respondent, within ten
 9 days and shall make an investigation of the charge. If the division
 10 determines after such investigation that there is not reasonable cause to
 11 believe that the charge is true, it shall enter an order determining the same
 12 and dismissing the charge and shall notify the charging party and the
 13 respondent of its action. If the division determines after such
 14 investigation that there is reasonable cause to believe that the charge is
 15 true, it shall enter an order containing its findings of fact and shall
 16 endeavor to eliminate the alleged unlawful employment practice by informal
 17 methods of conference, conciliation and persuasion. Any party to such
 18 informal proceeding may be represented by counsel. Counsel need not be a
 19 member of the state bar if he is licensed to practice law in any other state
 20 or territory of the United States. Nothing said or done during and as a part
 21 of such informal endeavors may be made public by the division or its officers
 22 or employees or used as evidence in a subsequent proceeding without the
 23 written consent of the persons concerned. If a civil action resulting from a
 24 charge is commenced in any federal or state court, evidence collected by or
 25 submitted to the division during the investigation of the charge and the
 26 source of the evidence shall be subject to discovery by the parties to the
 27 civil action. Any person who makes public information in violation of this
 28 subsection is guilty of a class 1 misdemeanor. The division shall make its
 29 determination on reasonable cause as promptly as possible and as far as
 30 practicable not later than sixty days from the filing of the charge. If more
 31 than two years have elapsed after the alleged unlawful employment practice
 32 occurred, and if the charging party has received a notice of right to sue,
 33 the division may cease investigation of a charge without reaching a
 34 determination.

35 C. All conciliation agreements shall provide that the charging party
 36 waives, releases and covenants not to sue the respondent or claim against the
 37 respondent in any forum with respect to the matters which were alleged as
 38 charges filed with the division, subject to performance by the respondent of
 39 the promises and representations contained in the conciliation agreement.
 40 The charging party or the respondent may prepare a conciliation agreement
 41 which the division shall submit to the other party and which, if accepted by
 42 the other party, shall be accepted by the division.

43 D. If within thirty days after the division has made a determination
 44 that reasonable cause exists to believe that the charge is true the division
 45 has not accepted a conciliation agreement to which the charging party and the

1 respondent are parties, the division may bring a civil action against the
 2 respondent, other than the state, named in the charge. The charging party
 3 shall have the right to intervene in a civil action brought by the
 4 division. If a charge filed with the division pursuant to subsection A of
 5 this section is dismissed by the division or if within ninety days from the
 6 filing of such charge the division has not filed a civil action under this
 7 section or has not entered into a conciliation agreement with the charging
 8 party, the division shall so notify the charging party. Within ninety days
 9 after the giving of such notice a civil action may be brought against the
 10 respondent named in the charge by the charging party or, if such charge was
 11 filed by a member of the division, by any person whom the charge alleges was
 12 aggrieved by the alleged unlawful employment practice. In no event shall any
 13 action be brought pursuant to this article more than one year after the
 14 charge to which the action relates has been filed. Upon application by the
 15 complainant and in such circumstances as the court may deem just, the court
 16 may appoint an attorney for such complainant and may authorize the
 17 commencement of the action without the payment of fees, costs or security.
 18 Upon timely application, the court may in its discretion permit the division
 19 to intervene in civil actions in which the state is not a defendant upon
 20 certification that the case is of general public importance. Upon request
 21 the court may stay further proceedings for not more than sixty days pending
 22 the further efforts of the parties or the division to obtain voluntary
 23 compliance.

24 E. Whenever a charge is filed with the division and the division
 25 concludes on the basis of a preliminary investigation that prompt judicial
 26 action is necessary to carry out the purposes of this article or article 4 of
 27 this chapter, the division may bring an action for appropriate temporary or
 28 preliminary relief pending final disposition of such charge. Any temporary
 29 restraining order or other order granting preliminary or temporary relief
 30 shall be issued in accordance with the supreme court rules of civil
 31 procedure. The court having jurisdiction over such proceedings shall assign
 32 such action for hearing at the earliest practicable date and cause the action
 33 to be expedited in every way.

34 F. The court shall assign any action brought under this article for
 35 hearing at the earliest practicable date and cause the action to be in every
 36 way expedited. If the action has not been scheduled for trial within one
 37 hundred twenty days after issue has been joined, the judge may appoint a
 38 master pursuant to rule 53 of the supreme court rules of civil procedure.

39 G. If the court finds that the defendant has intentionally engaged in
 40 or is intentionally engaging in an unlawful employment practice alleged in
 41 the complaint, the court may enjoin the defendant from engaging in such
 42 unlawful employment practice and order such affirmative action as may be
 43 appropriate. Affirmative action may include, but is not limited to,
 44 reinstatement or hiring of employees with or without back pay payable by the
 45 employer, employment agency or labor organization responsible for the

1 unlawful employment practice or any other equitable relief as the court deems
2 appropriate. Back pay liability shall not accrue from a date more than two
3 years prior to the filing of the charge with the division. Interim earnings
4 or amounts earnable with reasonable diligence by the person or persons
5 discriminated against shall reduce the back pay otherwise allowable. No
6 order of the court shall require the admission or reinstatement of an
7 individual as a member of a union or the hiring, reinstatement or promotion
8 of an individual as an employee or the payment to him of any back pay if such
9 individual was refused admission, suspended or expelled or was refused
10 employment or advancement or was suspended or discharged for any reason other
11 than discrimination on account of race, color, religion, sex, age, ~~handicap~~
12 **DISABILITY** or national origin or a violation of section 41-1464.

13 H. In any case in which an employer, employment agency or labor
14 organization fails to comply with an order of a court issued in a civil
15 action brought under this section, a party to the action or the division upon
16 the written request of a person aggrieved by such failure may commence
17 proceedings to compel compliance with such order.

18 I. Any civil action brought under this section and any proceedings
19 brought under subsection H of this section are subject to appeal as provided
20 in sections 12-120.21, 12-120.22 and 12-120.24.

21 J. In any action or proceeding under this section the court may allow
22 the prevailing party, other than the division, a reasonable attorney's fee as
23 part of the costs.

24 Sec. 189. Section 41-1491.19, Arizona Revised Statutes, is amended to
25 read:

26 41-1491.19. Discrimination due to disability: definitions

27 A. A person may not discriminate in the sale or rental or otherwise
28 make unavailable or deny a dwelling to any buyer or renter because of a
29 disability of:

- 30 1. That buyer or renter.
- 31 2. A person residing in or intending to reside in that dwelling after
32 it is sold, rented or made available.
- 33 3. A person associated with that buyer or renter.

34 B. A person may not discriminate against any person in the terms,
35 conditions or privileges of sale or rental of a dwelling or in the provision
36 of services or facilities in connection with the dwelling because of a
37 disability of:

- 38 1. That person.
- 39 2. A person residing in or intending to reside in that dwelling after
40 it is so sold, rented or made available.
- 41 3. A person associated with that person.

42 C. Nothing in this section requires that a dwelling be made available
43 to an individual whose tenancy would constitute a direct threat to the health
44 or safety of other individuals or whose tenancy would result in substantial
45 physical damage to the property of others.

1 D. Compliance with the appropriate requirements of the fair housing
2 accessibility guidelines established by the United States department of
3 housing and urban development satisfies the requirements of subsection E,
4 paragraph 3, subdivision (c).

5 E. For the purposes of this section, "discrimination" includes:

6 1. A refusal to permit, at the expense of the ~~disabled~~ person WITH A
7 DISABILITY, reasonable modifications of existing premises occupied or to be
8 occupied by the person if the modifications may be necessary to afford the
9 person full enjoyment of the premises, provided that, in the case of a
10 renter, the landlord may, where it is reasonable to do so, condition
11 permission for a modification on the renter agreeing, to restore the interior
12 of the premises to the condition that existed before the modification,
13 reasonable wear and tear excepted.

14 2. A refusal to make reasonable accommodations in rules, policies,
15 practices or services if the accommodations may be necessary to afford the
16 person equal opportunity to use and enjoy a dwelling.

17 3. In connection with the design and construction of covered
18 multifamily dwellings for first occupancy after the date that is thirty
19 months after the date of enactment of the federal fair housing amendments act
20 of 1988 (P.L. 100-430), a failure to design and construct those dwellings in
21 a manner that includes all of the following:

22 (a) The public use and common use portions of the dwellings are
23 readily accessible to and usable by ~~disabled~~ persons WITH A DISABILITY.

24 (b) All the doors designed to allow passage into and within all
25 premises within the dwellings are sufficiently wide to allow passage by
26 ~~disabled~~ persons WITH A DISABILITY in wheelchairs.

27 (c) All premises within the dwellings contain the following features
28 of adaptive design:

29 (i) An accessible route into and through the dwelling.

30 (ii) Light switches, electrical outlets, thermostats and other
31 environmental controls in accessible locations.

32 (iii) Reinforcements in bathroom walls to allow later installation of
33 grab bars.

34 (iv) Usable kitchens and bathrooms so that an individual in a
35 wheelchair can maneuver about the space.

36 F. As used in this section, "covered multifamily dwellings" means
37 buildings consisting of four or more units if the buildings have one or more
38 elevators and ground floor units in other buildings consisting of four or
39 more units.

40 Sec. 190. Section 41-1543, Arizona Revised Statutes, is amended to
41 read:

42 41-1543. Application criteria

43 The chief executive officer pursuant to the guidelines established by
44 the governor's council on workforce policy shall consider the following
45 before any award of monies pursuant to this article:

- 1 1. The training cost per employee.
- 2 2. The ability to leverage other job training resources.
- 3 3. The quality of jobs resulting from the training proposal, including
- 4 a requirement that a business receiving monies pursuant to this article pay
- 5 compensation at least equal to the qualifying wage rate per county that is
- 6 prescribed for the year in which the award is considered.
- 7 4. The use of the local labor force, dislocated workers, the
- 8 chronically unemployed and other special populations, including ~~the disabled~~
- 9 **PERSONS WITH DISABILITIES** and veterans.
- 10 5. The location or expansion of the business in rural or economically
- 11 depressed areas.
- 12 6. The diversity provided to the economy and the promotion of existing
- 13 and expanding businesses and businesses undergoing economic conversion.
- 14 7. The number of jobs resulting from the training proposal.
- 15 8. The ability to expand cluster industries. For purposes of this
- 16 paragraph, "cluster industries" means concentrations of firms across several
- 17 industries that share common economic foundation needs.
- 18 9. The extent to which the benefit package including health insurance
- 19 reflects the needs of the employees.
- 20 Sec. 191. Section 41-1973, Arizona Revised Statutes, is amended to
- 21 read:
- 22 41-1973. Compensation of workers; proportion of workers
- 23 required to be legally blind; workers as state
- 24 employees; definition
- 25 A. The department of economic security may compensate blind and other
- 26 workers for their work in the training centers, workshops and home industries
- 27 authorized in section 41-1972, subsections A and B, but a minimum of
- 28 seventy-five per cent of those workers in each of the training centers,
- 29 workshops and home industries shall be legally blind.
- 30 B. Persons participating in activities authorized by this article and
- 31 determined by the department of economic security to be blind or ~~otherwise~~
- 32 ~~handicapped persons~~ **TO HAVE OTHER DISABILITIES** are state employees but are
- 33 not entitled to the benefits of the merit system procedures pertaining to the
- 34 recruitment and retention of regular administrative employees of the
- 35 department.
- 36 C. For purposes of this section "legally blind" means any person who:
- 37 1. Has no vision or visual acuity.
- 38 2. Has central visual acuity of 20/200 or less in the better eye, with
- 39 the best correction by single magnification.
- 40 3. Has a field defect in which the peripheral field has been
- 41 contracted to such an extent that the widest diameter of visual field
- 42 subtends an angular distance no greater than twenty degrees.

1 Sec. 192. Section 41-1974, Arizona Revised Statutes, is amended to
2 read:

3 41-1974. Arizona industries for the blind; labor; medical
4 certification requirements

5 A minimum of seventy-five per cent of all persons involved in direct
6 labor shall be medically certified as PERSONS WHO ARE blind and ~~severely~~
7 ~~disabled~~ PERSONS WITH SEVERE DISABILITIES.

8 Sec. 193. Section 41-2636, Arizona Revised Statutes, is amended to
9 read:

10 41-2636. Procurement from Arizona industries for the blind,
11 certified nonprofit agencies that serve individuals
12 with disabilities and Arizona correctional
13 industries; definitions

14 A. The director shall appoint a state set-aside committee to determine
15 those materials and services that are provided, manufactured, produced and
16 offered for sale by Arizona industries for the blind, certified nonprofit
17 agencies that serve individuals with disabilities and Arizona correctional
18 industries and that satisfy the requirements of state governmental units and
19 to establish a fair market price for all approved materials and services
20 offered for sale that meet these requirements. Membership shall include the
21 assistant director for rehabilitation services in the department of economic
22 security or the assistant director's designee and a private sector
23 businessperson appointed by the governor who contracts or employs persons
24 with disabilities in the private sector. At each quarterly meeting the
25 director shall report on new procurement requests or renewal of existing
26 procurement requests for state purchases from lists supplied by set-aside
27 providers and that are within the capability of and that can be supplied by
28 the entities that are prescribed in this section. To qualify for set-aside
29 contracts, certified nonprofit agencies must maintain an employment ratio of
30 at least sixty per cent of program employees with significant disabilities.

31 B. Materials and services from Arizona correctional industries shall
32 be presented to the committee for approval. Office products, vinyl binders
33 and furniture refurbishing services shall be exempt from this article. State
34 governmental units shall purchase office products, vinyl binders and
35 furniture from Arizona correctional industries if each of the following
36 applies:

- 37 1. Such materials and services are readily available.
- 38 2. Such materials and services are capable of timely delivery.
- 39 3. Such materials and services are of equal quality and price for
40 these same materials and services in the private sector.

41 C. State governmental units shall purchase approved materials and
42 services if such materials and services are readily available.

43 D. Notwithstanding the requirements of section 41-2532, state
44 governmental units and local public procurement units may purchase or
45 contract for any products, materials and services directly from Arizona

1 industries for the blind, certified nonprofit agencies that serve individuals
2 with disabilities and Arizona correctional industries without competitive
3 bidding if the delivery and quality of the products, materials or services
4 meet the unit's reasonable requirements.

5 E. All state governmental units shall endeavor to set aside at least
6 one per cent of their new purchases or contracts for any products, materials
7 and services from the entities that are prescribed in subsection D of this
8 section, except for contracts for care and services for clients of the
9 department of economic security or the department of health services. The
10 department shall communicate with each state governmental unit regarding its
11 responsibility to comply with this subsection. The committee shall meet
12 quarterly to report progress in increasing state governmental purchases or
13 contracts with the entities that are prescribed in subsection D of this
14 section. The committee shall compile quarterly reports detailing new
15 purchases or contracts that are entered into pursuant to this subsection to
16 the director, each committee member, the governor, the president of the
17 senate and the speaker of the house of representatives.

18 F. The committee shall meet during the first month of each fiscal year
19 to determine which articles, products or services Arizona correctional
20 industries, certified nonprofit agencies that serve individuals with
21 disabilities and Arizona industries for the blind should continue to
22 manufacture for state use, to advise such agencies and industries of any
23 changes in specifications and to identify new articles or products that
24 should be manufactured or could be eligible for procurement.

25 G. For the purposes of this section:

26 1. "Certified nonprofit agency that serves individuals with
27 disabilities" means a nonprofit activity center that serves individuals with
28 significant disabilities and that satisfies all of the following:

29 (a) Is organized under the laws of this state or another state, is
30 operated in the interest of ~~disabled~~ individuals WITH DISABILITIES and the
31 net income of which does not inure in whole or in part to the benefit of any
32 shareholder or other individual.

33 (b) Complies with any applicable occupational health and safety
34 standard required by the laws of the United States and this state.

35 2. "~~Disabled individual~~ INDIVIDUALS WITH DISABILITIES" means an
36 individual who, because of the nature of the individual's disabilities, is
37 not able to fully participate in competitive employment and for whom
38 specialized employment and training ~~is~~ ARE necessary by a qualified nonprofit
39 organization through the department of economic security or the department of
40 health services.

- 1 2. Law.
- 2 3. Medicine.
- 3 4. Education.
- 4 5. Special education.
- 5 6. Social work.

6 E. Each human rights committee shall include at least two parents of
7 children who receive services from the division of developmental
8 disabilities.

9 Sec. 197. Section 41-3953, Arizona Revised Statutes, is amended to
10 read:

11 41-3953. Department powers and duties

12 A. The department is responsible for establishing policies, procedures
13 and programs that the department is authorized to conduct to address the
14 affordable housing issues confronting this state, including housing issues of
15 low income families, moderate income families, housing affordability, special
16 needs populations and decaying housing stock. Among other things, the
17 department shall provide to qualified housing participants and political
18 subdivisions of this state financial, advisory, consultative, planning,
19 training and educational assistance for the development of safe, decent and
20 affordable housing, including housing for low and moderate income households.

21 B. Under the direction of the director, the department shall:

22 1. Establish guidelines applicable to the programs and activities of
23 the department for the construction and financing of affordable housing and
24 housing for low and moderate income households in this state. These
25 guidelines shall meet or exceed all applicable state or local building and
26 health and safety code requirements and, if applicable, the national
27 manufactured home construction and safety standards act of 1974 and title VI
28 of the housing and community development act of 1974 (P.L. 93-383, as amended
29 by P.L. 95-128, 96-153 and 96-339). Guidelines established pursuant to this
30 paragraph do not apply to the department's activities prescribed in section
31 35-726, subsection E.

32 2. Provide staff support to the Arizona housing commission and
33 coordinate its activities.

34 3. Accept and allocate any monies as from time to time may be
35 appropriated by the legislature for the purposes set forth in this article.

36 4. Perform other duties necessary to administer this chapter.

37 5. Perform the duties prescribed in sections 35-726, 35-728 and
38 35-913. ~~and chapter 4.3 of this title.~~

39 6. Stimulate and encourage all local, state, regional and federal
40 governmental agencies and all private persons and enterprises that have
41 similar and related objectives and purposes, cooperate with the agencies,
42 persons and enterprises and correlate department plans, programs and
43 operations with those of the agencies, persons and enterprises.

- 1 7. Conduct research on its own initiative or at the request of the
2 governor, the legislature or state or local agencies pertaining to any
3 department objectives.
- 4 8. Provide information and advice on request of any local, state or
5 federal agencies, private persons and business enterprises on matters within
6 the scope of department activities.
- 7 9. Consult with and make recommendations to the governor and the
8 legislature on all matters concerning department objectives.
- 9 10. Make annual reports to the governor and the legislature on its
10 activities, including the geographic location of its activities, its finances
11 and the scope of its operations.
- 12 C. Under the direction of the director, the department may:
 - 13 1. Assist in securing construction and mortgage financing from public
14 and private sector sources.
 - 15 2. Assist mortgage financing programs established by industrial
16 development authorities and political subdivisions of this state.
 - 17 3. Assist in the acquisition and use of federal housing assistance
18 programs pertinent to enhance the economic feasibility of a proposed
19 residential development.
 - 20 4. Assist in the compliance of a proposed residential development with
21 applicable federal, state and local codes and ordinances.
 - 22 5. Prepare and publish planning and development guidelines for the
23 establishment and delivery of housing assistance programs.
 - 24 6. Contract with a federal agency to carry out financial work on the
25 federal agency's behalf and accept payment for the work.
 - 26 7. Subcontract for the financial work prescribed in paragraph 6 of
27 this subsection and make payments for that subcontracted work based on the
28 expectation that the federal agency will pay for that work.
 - 29 8. Accept payment from a federal agency for work prescribed in
30 paragraph 6 of this subsection and deposit those payments in the Arizona
31 department of housing program fund established by section 41-3957.
 - 32 9. Contract for the services of outside advisers, consultants and
33 aides reasonably necessary or desirable to enable the department to
34 adequately perform its duties.
 - 35 10. Contract and incur obligations reasonably necessary or desirable
36 within the general scope of department activities and operations to enable
37 the department to adequately perform its duties.
 - 38 11. Use any media of communication, publication and exhibition in the
39 dissemination of information, advertising and publicity in any field of its
40 purposes, objectives or duties.
 - 41 12. Adopt rules deemed necessary or desirable to govern its procedures
42 and business.
 - 43 13. Contract with other agencies in furtherance of any department
44 program.

1 14. Use monies, facilities or services to provide contributions under
2 federal or other programs that further the objectives and programs of the
3 department.

4 15. Accept gifts, grants, matching monies or direct payments from
5 public or private agencies or private persons and enterprises for the conduct
6 of programs that are consistent with the general purposes and objectives of
7 this article and deposit these monies in the Arizona department of housing
8 program fund established by section 41-3957.

9 16. Establish and collect fees and receive reimbursement of costs in
10 connection with any programs or duties performed by the department and
11 deposit the fees and cost reimbursements in the Arizona department of housing
12 program fund established by section 41-3957.

13 17. Provide staff support to the Arizona housing finance authority and
14 coordinate its activities.

15 D. For the purposes of this section, the department is exempt from
16 chapter 23 of this title.

17 E. The department is the designated state public housing agency as
18 defined in the United States housing act of 1937 (42 United States Code
19 sections 1401 through 1440) for the purpose of accepting federal housing
20 assistance monies and may participate in the housing assistance payments
21 program. Federal monies may be secured for all areas of this state subject
22 only to the limitations prescribed in subsection F of this section.

23 F. For areas of this state where an existing public housing authority
24 has not been established pursuant to section 36-1404, subsection A, the
25 department acting as a public housing agency may undertake all activities
26 under the section 8 tenant-based rental housing assistance payment program,
27 except that the department shall not undertake a section 8 tenant-based
28 rental housing assistance payment program within the boundaries of a city,
29 town or county unless authorized by resolution of the governing body of the
30 city, town or county. If the department accepts monies for a section 8
31 tenant-based rental housing assistance payment program for areas of this
32 state where an existing public housing authority has been established
33 pursuant to section 36-1404, subsection A, the department shall only accept
34 and secure federal monies to provide housing for the seriously mentally ill
35 or other ~~disabled~~ populations **WITH DISABILITIES**. The department may accept
36 and secure federal monies for undertaking all contract administrator
37 activities authorized under a section 8 project-based rental housing
38 assistance payment program in all areas of this state and this participation
39 does not require the authorization of any local governing body.

40 G. The department shall not itself directly own, construct, operate or
41 rehabilitate any housing units, except as may be necessary to protect the
42 department's collateral or security interest arising out of any department
43 programs.

44 H. Notwithstanding any other provision of this section, the department
45 may obligate monies as loans or grants applicable to programs and activities

1 of the department for the purpose of providing housing opportunities for low
2 or moderate income households or for housing affordability or to prevent or
3 combat decaying housing stock. Unless otherwise required by federal or state
4 law, any loan repayments shall be deposited in the Arizona department of
5 housing program fund established by section 41-3957.

6 I. For any construction project financed by the department pursuant to
7 subsection C, except for contract administration activities in connection
8 with the project-based section 8 program, the department shall notify a city,
9 town, county or tribal government that a project is planned for its
10 jurisdiction and, before proceeding, shall seek comment from the governing
11 body of the city, town, county or tribal government or an official authorized
12 by the governing body of the city, town, county or tribal government. The
13 department shall not interfere with or attempt to override the local
14 jurisdiction's planning, zoning or land use regulations.

15 Sec. 198. Section 41-3954, Arizona Revised Statutes, is amended to
16 read:

17 41-3954. Arizona housing commission; definitions

18 A. An Arizona housing commission is established consisting of:

19 1. The following members who are appointed by the governor:

20 (a) One representative of a rural city government.

21 (b) One representative of a nonrural city government from a county
22 with a population of less than one million five hundred thousand persons but
23 more than five hundred thousand persons.

24 (c) One representative of a nonrural city government from a county
25 with a population of one million five hundred thousand or more persons.

26 (d) One representative of a rural county government.

27 (e) One representative of a nonrural county government from a county
28 with a population of less than one million five hundred thousand persons but
29 more than five hundred thousand persons.

30 (f) One representative of a nonrural county government from a county
31 with a population of one million five hundred thousand or more persons.

32 (g) One representative of a tribal government.

33 (h) One representative of a tribal housing department.

34 (i) One representative of the banking or lending community.

35 (j) One representative of the special needs population.

36 (k) One representative of a statewide housing association.

37 (l) Two representatives of the private sector of the real estate
38 industry.

39 (m) Three representatives from the private sector of the housing
40 industry, one of whom represents home builders, one of whom represents
41 multifamily housing developers and one of whom represents licensed
42 manufactured home manufacturers or dealers.

43 (n) Two representatives of nonprofit organizations that work on
44 housing or other related issues, one of whom represents a nonprofit
45 organization that works in a county with a population of less than one

1 million five hundred thousand persons but more than five hundred thousand
2 persons and one of whom represents a nonprofit corporation that works in a
3 rural county.

4 (o) Two representatives of the general public, one of whom is from a
5 county with a population of less than one million five hundred thousand
6 persons but more than five hundred thousand persons and one of whom is from a
7 rural county. These members shall not be members of the board or staff of,
8 or have any direct or indirect benefit from the dealings of, a corporation
9 formed under title 35, chapter 5, article 1.

10 (p) One representative of an organization that works on farmworker
11 housing issues.

12 2. The director or the director's designee. The director or the
13 director's designee may only vote to break a tie vote of the other members.

14 3. The speaker of the house of representatives and the president of
15 the senate or their designees who serve as advisory members. For purposes of
16 this paragraph, "advisory members" means members who give advice to other
17 members of the commission but who are not eligible to vote and are not
18 members for the purpose of determining whether a quorum is present.

19 B. The commission shall:

20 1. Recommend housing strategic planning and policy.

21 2. Coordinate public and private housing finance programs.

22 3. Provide recommendations for better private and public partnerships
23 and initiatives for developing housing.

24 4. Review state housing programs.

25 5. Encourage the development of housing opportunities for special
26 needs populations.

27 6. Advise the governor, the legislature, state agencies and city,
28 county and tribal governmental bodies on the public and private actions that
29 affect the cost or supply of housing.

30 C. The members shall elect a chairperson and a vice-chairperson
31 annually.

32 D. The commission shall meet at least two times each year in a county
33 with a population of less than one million five hundred thousand persons but
34 more than five hundred thousand persons and at least one time each year in a
35 rural county.

36 E. Members appointed pursuant to subsection A, paragraph 1:

37 1. Serve four year terms.

38 2. Are not eligible to receive compensation but are eligible to
39 receive reimbursement for expenses pursuant to title 38, chapter 4,
40 article 2.

41 F. The director of the Arizona department of housing serves as
42 executive director of the commission.

43 G. For purposes of this section:

44 1. "Rural city" means either:

1 (a) A city or town with a population of less than fifty thousand
2 persons in a county with a population of five hundred thousand persons or
3 less.

4 (b) A city or town within a census county division with a population
5 of less than fifty thousand persons in a county with a population of more
6 than five hundred thousand persons.

7 2. "Rural county" means a county with a population of five hundred
8 thousand persons or less.

9 3. "Special needs population" includes the homeless, the seriously
10 mentally ill, ~~the physically disabled~~ PERSONS WITH PHYSICAL DISABILITIES,
11 individuals infected with the human immunodeficiency virus, the elderly or
12 other populations with specialized housing needs.

13 Sec. 199. Title 41, Arizona Revised Statutes, is amended by adding
14 chapter 51, to read:

15 CHAPTER 51

16 PERSONS WITH DISABILITIES

17 ARTICLE 1. GENERAL PROVISIONS

18 41-5101. Persons with disabilities; usage

19 THIS STATE SHALL USE THE TERM "PERSONS WITH DISABILITIES" IN ALL LAWS,
20 RULES, PUBLICATIONS, ORDERS, ACTIONS, PROGRAMS, POLICIES AND SIGNAGE.

21 Sec. 200. Section 42-5061, Arizona Revised Statutes, as amended by
22 Laws 2013, first special session, chapter 9, section 5 and Laws 2013, first
23 regular session, chapter 120, section 1 and chapter 233, section 1, is
24 amended to read:

25 42-5061. Retail classification; definitions

26 A. The retail classification is comprised of the business of selling
27 tangible personal property at retail. The tax base for the retail
28 classification is the gross proceeds of sales or gross income derived from
29 the business. The tax imposed on the retail classification does not apply to
30 the gross proceeds of sales or gross income from:

31 1. Professional or personal service occupations or businesses that
32 involve sales or transfers of tangible personal property only as
33 inconsequential elements.

34 2. Services rendered in addition to selling tangible personal property
35 at retail.

36 3. Sales of warranty or service contracts. The storage, use or
37 consumption of tangible personal property provided under the conditions of
38 such contracts is subject to tax under section 42-5156.

39 4. Sales of tangible personal property by any nonprofit organization
40 organized and operated exclusively for charitable purposes and recognized by
41 the United States internal revenue service under section 501(c)(3) of the
42 internal revenue code.

43 5. Sales to persons engaged in business classified under the
44 restaurant classification of articles used by human beings for food, drink or
45 condiment, whether simple, mixed or compounded.

- 1 6. Business activity that is properly included in any other business
2 classification that is taxable under this article.
- 3 7. The sale of stocks and bonds.
- 4 8. Drugs and medical oxygen, including delivery hose, mask or tent,
5 regulator and tank, on the prescription of a member of the medical, dental or
6 veterinarian profession who is licensed by law to administer such substances.
- 7 9. Prosthetic appliances as defined in section 23-501 prescribed or
8 recommended by a health professional who is licensed pursuant to title 32,
9 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 10 10. Insulin, insulin syringes and glucose test strips.
- 11 11. Prescription eyeglasses or contact lenses.
- 12 12. Hearing aids as defined in section 36-1901.
- 13 13. Durable medical equipment which has a centers for medicare and
14 medicaid services common procedure code, is designated reimbursable by
15 medicare, is prescribed by a person who is licensed under title 32, chapter
16 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
17 customarily used to serve a medical purpose, is generally not useful to a
18 person in the absence of illness or injury and is appropriate for use in the
19 home.
- 20 14. Sales to nonresidents of this state for use outside this state if
21 the vendor ships or delivers the tangible personal property out of this
22 state.
- 23 15. Food, as provided in and subject to the conditions of article 3 of
24 this chapter and section 42-5074.
- 25 16. Items purchased with United States department of agriculture food
26 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
27 958) or food instruments issued under section 17 of the child nutrition act
28 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
29 section 1786).
- 30 17. Textbooks by any bookstore that are required by any state
31 university or community college.
- 32 18. Food and drink to a person who is engaged in business that is
33 classified under the restaurant classification and that provides such food
34 and drink without monetary charge to its employees for their own consumption
35 on the premises during the employees' hours of employment.
- 36 19. Articles of food, drink or condiment and accessory tangible
37 personal property to a school district or charter school if such articles and
38 accessory tangible personal property are to be prepared and served to persons
39 for consumption on the premises of a public school within the district or on
40 the premises of the charter school during school hours.
- 41 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
42 article 1.
- 43 21. The sale of cash equivalents and the sale of precious metal bullion
44 and monetized bullion to the ultimate consumer, but the sale of coins or
45 other forms of money for manufacture into jewelry or works of art is subject

1 to the tax and the gross proceeds of sales or gross income derived from the
2 redemption of any cash equivalent by the holder as a means of payment for
3 goods or services that are taxable under this article is subject to the tax.
4 For the purposes of this paragraph:

5 (a) "Cash equivalents" means items or intangibles, whether or not
6 negotiable, that are sold to one or more persons, through which a value
7 denominated in money is purchased in advance and may be redeemed in full or
8 in part for tangible personal property, intangibles or services. Cash
9 equivalents include gift cards, stored value cards, gift certificates,
10 vouchers, traveler's checks, money orders or other instruments, orders or
11 electronic mechanisms, such as an electronic code, personal identification
12 number or digital payment mechanism, or any other prepaid intangible right to
13 acquire tangible personal property, intangibles or services in the future,
14 whether from the seller of the cash equivalent or from another person. Cash
15 equivalents do not include either of the following:

16 (i) Items or intangibles that are sold to one or more persons, through
17 which a value is not denominated in money.

18 (ii) Prepaid calling cards or prepaid authorization numbers for
19 telecommunications services made taxable by subsection Q of this section.

20 (b) "Monetized bullion" means coins and other forms of money that are
21 manufactured from gold, silver or other metals and that have been or are used
22 as a medium of exchange in this or another state, the United States or a
23 foreign nation.

24 (c) "Precious metal bullion" means precious metal, including gold,
25 silver, platinum, rhodium and palladium, that has been smelted or refined so
26 that its value depends on its contents and not on its form.

27 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
28 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
29 valid single trip use fuel tax permit issued under section 28-5739, sales of
30 aviation fuel that are subject to the tax imposed under section 28-8344 and
31 sales of jet fuel that are subject to the tax imposed under article 8 of this
32 chapter.

33 23. Tangible personal property sold to a person engaged in the business
34 of leasing or renting such property under the personal property rental
35 classification if such property is to be leased or rented by such person.

36 24. Tangible personal property sold in interstate or foreign commerce
37 if prohibited from being so taxed by the Constitution of the United States or
38 the constitution of this state.

39 25. Tangible personal property sold to:

40 (a) A qualifying hospital as defined in section 42-5001.

41 (b) A qualifying health care organization as defined in section
42 42-5001 if the tangible personal property is used by the organization solely
43 to provide health and medical related educational and charitable services.

44 (c) A qualifying health care organization as defined in section
45 42-5001 if the organization is dedicated to providing educational,

1 therapeutic, rehabilitative and family medical education training for blind,
2 AND visually impaired ~~and multihandicapped~~ children AND CHILDREN WITH
3 MULTIDISABILITIES from the time of birth to age twenty-one.

4 (d) A qualifying community health center as defined in section
5 42-5001.

6 (e) A nonprofit charitable organization that has qualified under
7 section 501(c)(3) of the internal revenue code and that regularly serves
8 meals to the needy and indigent on a continuing basis at no cost.

9 (f) For taxable periods beginning from and after June 30, 2001, a
10 nonprofit charitable organization that has qualified under section 501(c)(3)
11 of the internal revenue code and that provides residential apartment housing
12 for low income persons over sixty-two years of age in a facility that
13 qualifies for a federal housing subsidy, if the tangible personal property is
14 used by the organization solely to provide residential apartment housing for
15 low income persons over sixty-two years of age in a facility that qualifies
16 for a federal housing subsidy.

17 26. Magazines or other periodicals or other publications by this state
18 to encourage tourist travel.

19 27. Tangible personal property sold to a person that is subject to tax
20 under this article by reason of being engaged in business classified under
21 the prime contracting classification under section 42-5075, or to a
22 subcontractor working under the control of a prime contractor that is subject
23 to tax under article 1 of this chapter, if the property so sold is any of the
24 following:

25 (a) Incorporated or fabricated by the person into any real property,
26 structure, project, development or improvement as part of the business.

27 (b) Used in environmental response or remediation activities under
28 section 42-5075, subsection B, paragraph 6.

29 28. The sale of a motor vehicle to:

30 (a) A nonresident of this state if the purchaser's state of residence
31 does not allow a corresponding use tax exemption to the tax imposed by
32 article 1 of this chapter and if the nonresident has secured a special ninety
33 day nonresident registration permit for the vehicle as prescribed by sections
34 28-2154 and 28-2154.01.

35 (b) An enrolled member of an Indian tribe who resides on the Indian
36 reservation established for that tribe.

37 29. Tangible personal property purchased in this state by a nonprofit
38 charitable organization that has qualified under section 501(c)(3) of the
39 United States internal revenue code and that engages in and uses such
40 property exclusively in programs for ~~mentally or physically handicapped~~
41 persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are exclusively
42 for training, job placement, rehabilitation or testing.

43 30. Sales of tangible personal property by a nonprofit organization
44 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
45 of the internal revenue code if the organization is associated with a major

1 league baseball team or a national touring professional golfing association
2 and no part of the organization's net earnings inures to the benefit of any
3 private shareholder or individual.

4 31. Sales of commodities, as defined by title 7 United States Code
5 section 2, that are consigned for resale in a warehouse in this state in or
6 from which the commodity is deliverable on a contract for future delivery
7 subject to the rules of a commodity market regulated by the United States
8 commodity futures trading commission.

9 32. Sales of tangible personal property by a nonprofit organization
10 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
11 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
12 sponsors or operates a rodeo featuring primarily farm and ranch animals and
13 no part of the organization's net earnings inures to the benefit of any
14 private shareholder or individual.

15 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
16 propagative material to persons who use those items to commercially produce
17 agricultural, horticultural, viticultural or floricultural crops in this
18 state.

19 34. Machinery, equipment, technology or related supplies that are only
20 useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL
21 DISABILITY as defined in section 46-191, has a developmental disability as
22 defined in section 36-551 or has a head injury as defined in section 41-3201
23 to be more independent and functional.

24 35. Sales of tangible personal property that is shipped or delivered
25 directly to a destination outside the United States for use in that foreign
26 country.

27 36. Sales of natural gas or liquefied petroleum gas used to propel a
28 motor vehicle.

29 37. Paper machine clothing, such as forming fabrics and dryer felts,
30 sold to a paper manufacturer and directly used or consumed in paper
31 manufacturing.

32 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
33 sold to a qualified environmental technology manufacturer, producer or
34 processor as defined in section 41-1514.02 and directly used or consumed in
35 the generation or provision of on-site power or energy solely for
36 environmental technology manufacturing, producing or processing or
37 environmental protection. This paragraph shall apply for twenty full
38 consecutive calendar or fiscal years from the date the first paper
39 manufacturing machine is placed in service. In the case of an environmental
40 technology manufacturer, producer or processor who does not manufacture
41 paper, the time period shall begin with the date the first manufacturing,
42 processing or production equipment is placed in service.

43 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
44 processing, fabricating, mining, refining, metallurgical operations, research
45 and development and, beginning on January 1, 1999, printing, if using or

1 consuming the chemicals, alone or as part of an integrated system of
2 chemicals, involves direct contact with the materials from which the product
3 is produced for the purpose of causing or permitting a chemical or physical
4 change to occur in the materials as part of the production process. This
5 paragraph does not include chemicals that are used or consumed in activities
6 such as packaging, storage or transportation but does not affect any
7 deduction for such chemicals that is otherwise provided by this section. For
8 the purposes of this paragraph, "printing" means a commercial printing
9 operation and includes job printing, engraving, embossing, copying and
10 bookbinding.

11 40. Through December 31, 1994, personal property liquidation
12 transactions, conducted by a personal property liquidator. From and after
13 December 31, 1994, personal property liquidation transactions shall be
14 taxable under this section provided that nothing in this subsection shall be
15 construed to authorize the taxation of casual activities or transactions
16 under this chapter. For the purposes of this paragraph:

17 (a) "Personal property liquidation transaction" means a sale of
18 personal property made by a personal property liquidator acting solely on
19 behalf of the owner of the personal property sold at the dwelling of the
20 owner or on the death of any owner, on behalf of the surviving spouse, if
21 any, any devisee or heir or the personal representative of the estate of the
22 deceased, if one has been appointed.

23 (b) "Personal property liquidator" means a person who is retained to
24 conduct a sale in a personal property liquidation transaction.

25 41. Sales of food, drink and condiment for consumption within the
26 premises of any prison, jail or other institution under the jurisdiction of
27 the state department of corrections, the department of public safety, the
28 department of juvenile corrections or a county sheriff.

29 42. A motor vehicle and any repair and replacement parts and tangible
30 personal property becoming a part of such motor vehicle sold to a motor
31 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
32 and who is engaged in the business of leasing or renting such property.

33 43. Livestock and poultry feed, salts, vitamins and other additives for
34 livestock or poultry consumption that are sold to persons who are engaged in
35 producing livestock, poultry, or livestock or poultry products or who are
36 engaged in feeding livestock or poultry commercially. For the purposes of
37 this paragraph, "poultry" includes ratites.

38 44. Sales of implants used as growth promotants and injectable
39 medicines, not already exempt under paragraph 8 of this subsection, for
40 livestock or poultry owned by or in possession of persons who are engaged in
41 producing livestock, poultry, or livestock or poultry products or who are
42 engaged in feeding livestock or poultry commercially. For the purposes of
43 this paragraph, "poultry" includes ratites.

44 45. Sales of motor vehicles at auction to nonresidents of this state
45 for use outside this state if the vehicles are shipped or delivered out of

1 this state, regardless of where title to the motor vehicles passes or its
2 free on board point.

3 46. Tangible personal property sold to a person engaged in business and
4 subject to tax under the transient lodging classification if the tangible
5 personal property is a personal hygiene item or articles used by human beings
6 for food, drink or condiment, except alcoholic beverages, that are furnished
7 without additional charge to and intended to be consumed by the transient
8 during the transient's occupancy.

9 47. Sales of alternative fuel, as defined in section 1-215, to a used
10 oil fuel burner who has received a permit to burn used oil or used oil fuel
11 under section 49-426 or 49-480.

12 48. Sales of materials that are purchased by or for publicly funded
13 libraries including school district libraries, charter school libraries,
14 community college libraries, state university libraries or federal, state,
15 county or municipal libraries for use by the public as follows:

16 (a) Printed or photographic materials, beginning August 7, 1985.

17 (b) Electronic or digital media materials, beginning July 17, 1994.

18 49. Tangible personal property sold to a commercial airline and
19 consisting of food, beverages and condiments and accessories used for serving
20 the food and beverages, if those items are to be provided without additional
21 charge to passengers for consumption in flight. For the purposes of this
22 paragraph, "commercial airline" means a person holding a federal certificate
23 of public convenience and necessity or foreign air carrier permit for air
24 transportation to transport persons, property or United States mail in
25 intrastate, interstate or foreign commerce.

26 50. Sales of alternative fuel vehicles if the vehicle was manufactured
27 as a diesel fuel vehicle and converted to operate on alternative fuel and
28 equipment that is installed in a conventional diesel fuel motor vehicle to
29 convert the vehicle to operate on an alternative fuel, as defined in section
30 1-215.

31 51. Sales of any spirituous, vinous or malt liquor by a person that is
32 licensed in this state as a wholesaler by the department of liquor licenses
33 and control pursuant to title 4, chapter 2, article 1.

34 52. Sales of tangible personal property to be incorporated or installed
35 as part of environmental response or remediation activities under section
36 42-5075, subsection B, paragraph 6.

37 53. Sales of tangible personal property by a nonprofit organization
38 that is exempt from taxation under section 501(c)(6) of the internal revenue
39 code if the organization produces, organizes or promotes cultural or civic
40 related festivals or events and no part of the organization's net earnings
41 inures to the benefit of any private shareholder or individual.

42 54. Through August 31, 2014, sales of Arizona centennial medallions by
43 the historical advisory commission.

44 55. Application services that are designed to assess or test student
45 learning or to promote curriculum design or enhancement purchased by or for

1 any school district, charter school, community college or state university.
2 For the purposes of this paragraph:

3 (a) "Application services" means software applications provided
4 remotely using hypertext transfer protocol or another network protocol.

5 (b) "Curriculum design or enhancement" means planning, implementing or
6 reporting on courses of study, lessons, assignments or other learning
7 activities.

8 56. Sales of motor vehicle fuel and use fuel to a qualified business
9 under section 41-1516 for off-road use in harvesting, processing or
10 transporting qualifying forest products removed from qualifying projects as
11 defined in section 41-1516.

12 57. Sales of repair parts installed in equipment used directly by a
13 qualified business under section 41-1516 in harvesting, processing or
14 transporting qualifying forest products removed from qualifying projects as
15 defined in section 41-1516.

16 58. Sales or other transfers of renewable energy credits or any other
17 unit created to track energy derived from renewable energy resources. For
18 the purposes of this paragraph, "renewable energy credit" means a unit
19 created administratively by the corporation commission or governing body of a
20 public power utility to track kilowatt hours of electricity derived from a
21 renewable energy resource or the kilowatt hour equivalent of conventional
22 energy resources displaced by distributed renewable energy resources.

23 59. Computer data center equipment purchased by the owner, operator or
24 qualified colocation tenant of the computer data center or an authorized
25 agent of the owner, operator or qualified colocation tenant during the
26 qualification period for use in a computer data center that is certified by
27 the Arizona commerce authority under section 41-1519. To qualify for this
28 deduction, at the time of purchase, the owner, operator or qualified
29 colocation tenant must present to the retailer its certificate that is issued
30 pursuant to section 41-1519 and that establishes its qualification for the
31 deduction. For the purposes of this paragraph, "computer data center",
32 "computer data center equipment", "qualification period" and "qualified
33 colocation tenant" have the same meanings prescribed in section 41-1519.

34 60. Orthodontic devices dispensed by a dental professional who is
35 licensed under title 32, chapter 11 to a patient as part of the practice of
36 dentistry.

37 B. In addition to the deductions from the tax base prescribed by
38 subsection A of this section, the gross proceeds of sales or gross income
39 derived from sales of the following categories of tangible personal property
40 shall be deducted from the tax base:

41 1. Machinery, or equipment, used directly in manufacturing,
42 processing, fabricating, job printing, refining or metallurgical operations.
43 The terms "manufacturing", "processing", "fabricating", "job printing",
44 "refining" and "metallurgical" as used in this paragraph refer to and include
45 those operations commonly understood within their ordinary meaning.

1 "Metallurgical operations" includes leaching, milling, precipitating,
2 smelting and refining.

3 2. Mining machinery, or equipment, used directly in the process of
4 extracting ores or minerals from the earth for commercial purposes, including
5 equipment required to prepare the materials for extraction and handling,
6 loading or transporting such extracted material to the surface. "Mining"
7 includes underground, surface and open pit operations for extracting ores and
8 minerals.

9 3. Tangible personal property sold to persons engaged in business
10 classified under the telecommunications classification and consisting of
11 central office switching equipment, switchboards, private branch exchange
12 equipment, microwave radio equipment and carrier equipment including optical
13 fiber, coaxial cable and other transmission media which are components of
14 carrier systems.

15 4. Machinery, equipment or transmission lines used directly in
16 producing or transmitting electrical power, but not including distribution.
17 Transformers and control equipment used at transmission substation sites
18 constitute equipment used in producing or transmitting electrical power.

19 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
20 to be used as breeding or production stock, including sales of breedings or
21 ownership shares in such animals used for breeding or production.

22 6. Pipes or valves four inches in diameter or larger used to transport
23 oil, natural gas, artificial gas, water or coal slurry, including compressor
24 units, regulators, machinery and equipment, fittings, seals and any other
25 part that is used in operating the pipes or valves.

26 7. Aircraft, navigational and communication instruments and other
27 accessories and related equipment sold to:

28 (a) A person holding a federal certificate of public convenience and
29 necessity, a supplemental air carrier certificate under federal aviation
30 regulations (14 Code of Federal Regulations part 121) or a foreign air
31 carrier permit for air transportation for use as or in conjunction with or
32 becoming a part of aircraft to be used to transport persons, property or
33 United States mail in intrastate, interstate or foreign commerce.

34 (b) Any foreign government.

35 (c) Persons who are not residents of this state and who will not use
36 such property in this state other than in removing such property from this
37 state. This subdivision also applies to corporations that are not
38 incorporated in this state, regardless of maintaining a place of business in
39 this state, if the principal corporate office is located outside this state
40 and the property will not be used in this state other than in removing the
41 property from this state.

42 8. Machinery, tools, equipment and related supplies used or consumed
43 directly in repairing, remodeling or maintaining aircraft, aircraft engines
44 or aircraft component parts by or on behalf of a certificated or licensed
45 carrier of persons or property.

1 9. Railroad rolling stock, rails, ties and signal control equipment
2 used directly to transport persons or property.

3 10. Machinery or equipment used directly to drill for oil or gas or
4 used directly in the process of extracting oil or gas from the earth for
5 commercial purposes.

6 11. Buses or other urban mass transit vehicles which are used directly
7 to transport persons or property for hire or pursuant to a governmentally
8 adopted and controlled urban mass transportation program and which are sold
9 to bus companies holding a federal certificate of convenience and necessity
10 or operated by any city, town or other governmental entity or by any person
11 contracting with such governmental entity as part of a governmentally adopted
12 and controlled program to provide urban mass transportation.

13 12. Groundwater measuring devices required under section 45-604.

14 13. New machinery and equipment consisting of tractors, tractor-drawn
15 implements, self-powered implements, machinery and equipment necessary for
16 extracting milk, and machinery and equipment necessary for cooling milk and
17 livestock, and drip irrigation lines not already exempt under paragraph 6 of
18 this subsection and that are used for commercial production of agricultural,
19 horticultural, viticultural and floricultural crops and products in this
20 state. For the purposes of this paragraph:

21 (a) "New machinery and equipment" means machinery and equipment that
22 have never been sold at retail except pursuant to leases or rentals which do
23 not total two years or more.

24 (b) "Self-powered implements" includes machinery and equipment that
25 are electric-powered.

26 14. Machinery or equipment used in research and development. For the
27 purposes of this paragraph, "research and development" means basic and
28 applied research in the sciences and engineering, and designing, developing
29 or testing prototypes, processes or new products, including research and
30 development of computer software that is embedded in or an integral part of
31 the prototype or new product or that is required for machinery or equipment
32 otherwise exempt under this section to function effectively. Research and
33 development do not include manufacturing quality control, routine consumer
34 product testing, market research, sales promotion, sales service, research in
35 social sciences or psychology, computer software research that is not
36 included in the definition of research and development, or other
37 nontechnological activities or technical services.

38 15. Tangible personal property that is used by either of the following
39 to receive, store, convert, produce, generate, decode, encode, control or
40 transmit telecommunications information:

41 (a) Any direct broadcast satellite television or data transmission
42 service that operates pursuant to 47 Code of Federal Regulations part 25.

43 (b) Any satellite television or data transmission facility, if both of
44 the following conditions are met:

1 (i) Over two-thirds of the transmissions, measured in megabytes,
2 transmitted by the facility during the test period were transmitted to or on
3 behalf of one or more direct broadcast satellite television or data
4 transmission services that operate pursuant to 47 Code of Federal Regulations
5 part 25.

6 (ii) Over two-thirds of the transmissions, measured in megabytes,
7 transmitted by or on behalf of those direct broadcast television or data
8 transmission services during the test period were transmitted by the facility
9 to or on behalf of those services.

10 For the purposes of subdivision (b) of this paragraph, "test period" means
11 the three hundred sixty-five day period beginning on the later of the date on
12 which the tangible personal property is purchased or the date on which the
13 direct broadcast satellite television or data transmission service first
14 transmits information to its customers.

15 16. Clean rooms that are used for manufacturing, processing,
16 fabrication or research and development, as defined in paragraph 14 of this
17 subsection, of semiconductor products. For the purposes of this paragraph,
18 "clean room" means all property that comprises or creates an environment
19 where humidity, temperature, particulate matter and contamination are
20 precisely controlled within specified parameters, without regard to whether
21 the property is actually contained within that environment or whether any of
22 the property is affixed to or incorporated into real property. Clean room:

23 (a) Includes the integrated systems, fixtures, piping, movable
24 partitions, lighting and all property that is necessary or adapted to reduce
25 contamination or to control airflow, temperature, humidity, chemical purity
26 or other environmental conditions or manufacturing tolerances, as well as the
27 production machinery and equipment operating in conjunction with the clean
28 room environment.

29 (b) Does not include the building or other permanent, nonremovable
30 component of the building that houses the clean room environment.

31 17. Machinery and equipment used directly in the feeding of poultry,
32 the environmental control of housing for poultry, the movement of eggs within
33 a production and packaging facility or the sorting or cooling of eggs. This
34 exemption does not apply to vehicles used for transporting eggs.

35 18. Machinery or equipment, including related structural components,
36 that is employed in connection with manufacturing, processing, fabricating,
37 job printing, refining, mining, natural gas pipelines, metallurgical
38 operations, telecommunications, producing or transmitting electricity or
39 research and development and that is used directly to meet or exceed rules or
40 regulations adopted by the federal energy regulatory commission, the United
41 States environmental protection agency, the United States nuclear regulatory
42 commission, the Arizona department of environmental quality or a political
43 subdivision of this state to prevent, monitor, control or reduce land, water
44 or air pollution.

1 19. Machinery and equipment that are sold to a person engaged in the
2 commercial production of livestock, livestock products or agricultural,
3 horticultural, viticultural or floricultural crops or products in this state
4 and that are used directly and primarily to prevent, monitor, control or
5 reduce air, water or land pollution.

6 20. Machinery or equipment that enables a television station to
7 originate and broadcast or to receive and broadcast digital television
8 signals and that was purchased to facilitate compliance with the
9 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
10 Code section 336) and the federal communications commission order issued
11 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
12 not exempt any of the following:

13 (a) Repair or replacement parts purchased for the machinery or
14 equipment described in this paragraph.

15 (b) Machinery or equipment purchased to replace machinery or equipment
16 for which an exemption was previously claimed and taken under this paragraph.

17 (c) Any machinery or equipment purchased after the television station
18 has ceased analog broadcasting, or purchased after November 1, 2009,
19 whichever occurs first.

20 21. Qualifying equipment that is purchased from and after June 30, 2004
21 through June 30, 2024 by a qualified business under section 41-1516 for
22 harvesting or processing qualifying forest products removed from qualifying
23 projects as defined in section 41-1516. To qualify for this deduction, the
24 qualified business at the time of purchase must present its certification
25 approved by the department.

26 C. The deductions provided by subsection B of this section do not
27 include sales of:

28 1. Expendable materials. For the purposes of this paragraph,
29 expendable materials do not include any of the categories of tangible
30 personal property specified in subsection B of this section regardless of the
31 cost or useful life of that property.

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

34 4. Tangible personal property used in selling or distributing
35 activities, other than the telecommunications transmissions described in
36 subsection B, paragraph 15 of this section.

37 5. Motor vehicles required to be licensed by this state, except buses
38 or other urban mass transit vehicles specifically exempted pursuant to
39 subsection B, paragraph 11 of this section, without regard to the use of such
40 motor vehicles.

41 6. Shops, buildings, docks, depots and all other materials of whatever
42 kind or character not specifically included as exempt.

43 7. Motors and pumps used in drip irrigation systems.

44 D. In addition to the deductions from the tax base prescribed by
45 subsection A of this section, there shall be deducted from the tax base the

1 gross proceeds of sales or gross income derived from sales of machinery,
2 equipment, materials and other tangible personal property used directly and
3 predominantly to construct a qualified environmental technology
4 manufacturing, producing or processing facility as described in section
5 41-1514.02. This subsection applies for ten full consecutive calendar or
6 fiscal years after the start of initial construction.

7 E. In computing the tax base, gross proceeds of sales or gross income
8 from retail sales of heavy trucks and trailers does not include any amount
9 attributable to federal excise taxes imposed by 26 United States Code section
10 4051.

11 F. In computing the tax base, gross proceeds of sales or gross income
12 from the sale of use fuel, as defined in section 28-5601, does not include
13 any amount attributable to federal excise taxes imposed by 26 United States
14 Code section 4091.

15 G. If a person is engaged in an occupation or business to which
16 subsection A of this section applies, the person's books shall be kept so as
17 to show separately the gross proceeds of sales of tangible personal property
18 and the gross income from sales of services, and if not so kept the tax shall
19 be imposed on the total of the person's gross proceeds of sales of tangible
20 personal property and gross income from services.

21 H. If a person is engaged in the business of selling tangible personal
22 property at both wholesale and retail, the tax under this section applies
23 only to the gross proceeds of the sales made other than at wholesale if the
24 person's books are kept so as to show separately the gross proceeds of sales
25 of each class, and if the books are not so kept, the tax under this section
26 applies to the gross proceeds of every sale so made.

27 I. A person who engages in manufacturing, baling, crating, boxing,
28 barreling, canning, bottling, sacking, preserving, processing or otherwise
29 preparing for sale or commercial use any livestock, agricultural or
30 horticultural product or any other product, article, substance or commodity
31 and who sells the product of such business at retail in this state is deemed,
32 as to such sales, to be engaged in business classified under the retail
33 classification. This subsection does not apply to businesses classified
34 under the:

- 35 1. Transporting classification.
- 36 2. Utilities classification.
- 37 3. Telecommunications classification.
- 38 4. Pipeline classification.
- 39 5. Private car line classification.
- 40 6. Publication classification.
- 41 7. Job printing classification.
- 42 8. Prime contracting classification.
- 43 9. Owner builder sales classification.
- 44 10. Restaurant classification.

1 J. The gross proceeds of sales or gross income derived from the
2 following shall be deducted from the tax base for the retail classification:

3 1. Sales made directly to the United States government or its
4 departments or agencies by a manufacturer, modifier, assembler or repairer.

5 2. Sales made directly to a manufacturer, modifier, assembler or
6 repairer if such sales are of any ingredient or component part of products
7 sold directly to the United States government or its departments or agencies
8 by the manufacturer, modifier, assembler or repairer.

9 3. Overhead materials or other tangible personal property that is used
10 in performing a contract between the United States government and a
11 manufacturer, modifier, assembler or repairer, including property used in
12 performing a subcontract with a government contractor who is a manufacturer,
13 modifier, assembler or repairer, to which title passes to the government
14 under the terms of the contract or subcontract.

15 4. Sales of overhead materials or other tangible personal property to
16 a manufacturer, modifier, assembler or repairer if the gross proceeds of
17 sales or gross income derived from the property by the manufacturer,
18 modifier, assembler or repairer will be exempt under paragraph 3 of this
19 subsection.

20 K. There shall be deducted from the tax base fifty per cent of the
21 gross proceeds or gross income from any sale of tangible personal property
22 made directly to the United States government or its departments or agencies,
23 which is not deducted under subsection J of this section.

24 L. The department shall require every person claiming a deduction
25 provided by subsection J or K of this section to file on forms prescribed by
26 the department at such times as the department directs a sworn statement
27 disclosing the name of the purchaser and the exact amount of sales on which
28 the exclusion or deduction is claimed.

29 M. In computing the tax base, gross proceeds of sales or gross income
30 does not include:

31 1. A manufacturer's cash rebate on the sales price of a motor vehicle
32 if the buyer assigns the buyer's right in the rebate to the retailer.

33 2. The waste tire disposal fee imposed pursuant to section 44-1302.

34 N. There shall be deducted from the tax base the amount received from
35 sales of solar energy devices. The retailer shall register with the
36 department as a solar energy retailer. By registering, the retailer
37 acknowledges that it will make its books and records relating to sales of
38 solar energy devices available to the department for examination.

39 O. In computing the tax base in the case of the sale or transfer of
40 wireless telecommunications equipment as an inducement to a customer to enter
41 into or continue a contract for telecommunications services that are taxable
42 under section 42-5064, gross proceeds of sales or gross income does not
43 include any sales commissions or other compensation received by the retailer
44 as a result of the customer entering into or continuing a contract for the
45 telecommunications services.

1 P. For the purposes of this section, a sale of wireless
2 telecommunications equipment to a person who holds the equipment for sale or
3 transfer to a customer as an inducement to enter into or continue a contract
4 for telecommunications services that are taxable under section 42-5064 is
5 considered to be a sale for resale in the regular course of business.

6 Q. Retail sales of prepaid calling cards or prepaid authorization
7 numbers for telecommunications services, including sales of reauthorization
8 of a prepaid card or authorization number, are subject to tax under this
9 section.

10 R. For the purposes of this section, the diversion of gas from a
11 pipeline by a person engaged in the business of:

12 1. Operating a natural or artificial gas pipeline, for the sole
13 purpose of fueling compressor equipment to pressurize the pipeline, is not a
14 sale of the gas to the operator of the pipeline.

15 2. Converting natural gas into liquefied natural gas, for the sole
16 purpose of fueling compressor equipment used in the conversion process, is
17 not a sale of gas to the operator of the compressor equipment.

18 S. If a seller is entitled to a deduction pursuant to subsection B,
19 paragraph 15, subdivision (b) of this section, the department may require the
20 purchaser to establish that the requirements of subsection B, paragraph 15,
21 subdivision (b) of this section have been satisfied. If the purchaser cannot
22 establish that the requirements of subsection B, paragraph 15, subdivision
23 (b) of this section have been satisfied, the purchaser is liable in an amount
24 equal to any tax, penalty and interest which the seller would have been
25 required to pay under article 1 of this chapter if the seller had not made a
26 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this
27 section. Payment of the amount under this subsection exempts the purchaser
28 from liability for any tax imposed under article 4 of this chapter and
29 related to the tangible personal property purchased. The amount shall be
30 treated as transaction privilege tax to the purchaser and as tax revenues
31 collected from the seller to designate the distribution base pursuant to
32 section 42-5029.

33 T. For the purposes of section 42-5032.01, the department shall
34 separately account for revenues collected under the retail classification
35 from businesses selling tangible personal property at retail:

36 1. On the premises of a multipurpose facility that is owned, leased or
37 operated by the tourism and sports authority pursuant to title 5, chapter 8.

38 2. At professional football contests that are held in a stadium
39 located on the campus of an institution under the jurisdiction of the Arizona
40 board of regents.

41 U. In computing the tax base for the sale of a motor vehicle to a
42 nonresident of this state, if the purchaser's state of residence allows a
43 corresponding use tax exemption to the tax imposed by article 1 of this
44 chapter and the rate of the tax in the purchaser's state of residence is
45 lower than the rate prescribed in article 1 of this chapter or if the

1 purchaser's state of residence does not impose an excise tax, and the
2 nonresident has secured a special ninety day nonresident registration permit
3 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
4 be deducted from the tax base a portion of the gross proceeds or gross income
5 from the sale so that the amount of transaction privilege tax that is paid in
6 this state is equal to the excise tax that is imposed by the purchaser's
7 state of residence on the nonexempt sale or use of the motor vehicle.

8 V. For the purposes of this section:

9 1. "Aircraft" includes:

10 (a) An airplane flight simulator that is approved by the federal
11 aviation administration for use as a phase II or higher flight simulator
12 under appendix H, 14 Code of Federal Regulations part 121.

13 (b) Tangible personal property that is permanently affixed or attached
14 as a component part of an aircraft that is owned or operated by a
15 certificated or licensed carrier of persons or property.

16 2. "Other accessories and related equipment" includes aircraft
17 accessories and equipment such as ground service equipment that physically
18 contact aircraft at some point during the overall carrier operation.

19 3. "Selling at retail" means a sale for any purpose other than for
20 resale in the regular course of business in the form of tangible personal
21 property, but transfer of possession, lease and rental as used in the
22 definition of sale mean only such transactions as are found on investigation
23 to be in lieu of sales as defined without the words lease or rental.

24 W. For the purposes of subsection J of this section:

25 1. "Assembler" means a person who unites or combines products, wares
26 or articles of manufacture so as to produce a change in form or substance
27 without changing or altering the component parts.

28 2. "Manufacturer" means a person who is principally engaged in the
29 fabrication, production or manufacture of products, wares or articles for use
30 from raw or prepared materials, imparting to those materials new forms,
31 qualities, properties and combinations.

32 3. "Modifier" means a person who reworks, changes or adds to products,
33 wares or articles of manufacture.

34 4. "Overhead materials" means tangible personal property, the gross
35 proceeds of sales or gross income derived from that would otherwise be
36 included in the retail classification, and that are used or consumed in the
37 performance of a contract, the cost of which is charged to an overhead
38 expense account and allocated to various contracts based on generally
39 accepted accounting principles and consistent with government contract
40 accounting standards.

41 5. "Repairer" means a person who restores or renews products, wares or
42 articles of manufacture.

43 6. "Subcontract" means an agreement between a contractor and any
44 person who is not an employee of the contractor for furnishing of supplies or
45 services that, in whole or in part, are necessary to the performance of one

1 or more government contracts, or under which any portion of the contractor's
2 obligation under one or more government contracts is performed, undertaken or
3 assumed and that includes provisions causing title to overhead materials or
4 other tangible personal property used in the performance of the subcontract
5 to pass to the government or that includes provisions incorporating such
6 title passing clauses in a government contract into the subcontract.

7 Sec. 201. Section 42-5061, Arizona Revised Statutes, as amended by
8 Laws 2013, chapter 255, section 13, is amended to read:

9 42-5061. Retail classification; definitions

10 A. The retail classification is comprised of the business of selling
11 tangible personal property at retail. The tax base for the retail
12 classification is the gross proceeds of sales or gross income derived from
13 the business. The tax imposed on the retail classification does not apply to
14 the gross proceeds of sales or gross income from:

15 1. Professional or personal service occupations or businesses that
16 involve sales or transfers of tangible personal property only as
17 inconsequential elements.

18 2. Services rendered in addition to selling tangible personal property
19 at retail.

20 3. Sales of warranty or service contracts. The storage, use or
21 consumption of tangible personal property provided under the conditions of
22 such contracts is subject to tax under section 42-5156.

23 4. Sales of tangible personal property by any nonprofit organization
24 organized and operated exclusively for charitable purposes and recognized by
25 the United States internal revenue service under section 501(c)(3) of the
26 internal revenue code.

27 5. Sales to persons engaged in business classified under the
28 restaurant classification of articles used by human beings for food, drink or
29 condiment, whether simple, mixed or compounded.

30 6. Business activity that is properly included in any other business
31 classification that is taxable under this article.

32 7. The sale of stocks and bonds.

33 8. Drugs and medical oxygen, including delivery hose, mask or tent,
34 regulator and tank, on the prescription of a member of the medical, dental or
35 veterinarian profession who is licensed by law to administer such substances.

36 9. Prosthetic appliances as defined in section 23-501 prescribed or
37 recommended by a health professional who is licensed pursuant to title 32,
38 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

39 10. Insulin, insulin syringes and glucose test strips.

40 11. Prescription eyeglasses or contact lenses.

41 12. Hearing aids as defined in section 36-1901.

42 13. Durable medical equipment that has a centers for medicare and
43 medicaid services common procedure code, is designated reimbursable by
44 medicare, is prescribed by a person who is licensed under title 32, chapter
45 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and

1 customarily used to serve a medical purpose, is generally not useful to a
2 person in the absence of illness or injury and is appropriate for use in the
3 home.

4 14. Sales of motor vehicles to nonresidents of this state for use
5 outside this state if the motor vehicle dealer ships or delivers the motor
6 vehicle to a destination out of this state.

7 15. Food, as provided in and subject to the conditions of article 3 of
8 this chapter and section 42-5074.

9 16. Items purchased with United States department of agriculture food
10 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
11 958) or food instruments issued under section 17 of the child nutrition act
12 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
13 section 1786).

14 17. Textbooks by any bookstore that are required by any state
15 university or community college.

16 18. Food and drink to a person that is engaged in a business that is
17 classified under the restaurant classification and that provides such food
18 and drink without monetary charge to its employees for their own consumption
19 on the premises during the employees' hours of employment.

20 19. Articles of food, drink or condiment and accessory tangible
21 personal property to a school district or charter school if such articles and
22 accessory tangible personal property are to be prepared and served to persons
23 for consumption on the premises of a public school within the district or on
24 the premises of the charter school during school hours.

25 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
26 article 1.

27 21. The sale of precious metal bullion and monetized bullion to the
28 ultimate consumer, but the sale of coins or other forms of money for
29 manufacture into jewelry or works of art is subject to the tax. For the
30 purposes of this paragraph:

31 (a) "Monetized bullion" means coins and other forms of money that are
32 manufactured from gold, silver or other metals and that have been or are used
33 as a medium of exchange in this or another state, the United States or a
34 foreign nation.

35 (b) "Precious metal bullion" means precious metal, including gold,
36 silver, platinum, rhodium and palladium, that has been smelted or refined so
37 that its value depends on its contents and not on its form.

38 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
39 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
40 valid single trip use fuel tax permit issued under section 28-5739, sales of
41 aviation fuel that are subject to the tax imposed under section 28-8344 and
42 sales of jet fuel that are subject to the tax imposed under article 8 of this
43 chapter.

1 23. Tangible personal property sold to a person engaged in the business
2 of leasing or renting such property under the personal property rental
3 classification if such property is to be leased or rented by such person.

4 24. Tangible personal property sold in interstate or foreign commerce
5 if prohibited from being so taxed by the Constitution of the United States or
6 the constitution of this state.

7 25. Tangible personal property sold to:

8 (a) A qualifying hospital as defined in section 42-5001.

9 (b) A qualifying health care organization as defined in section
10 42-5001 if the tangible personal property is used by the organization solely
11 to provide health and medical related educational and charitable services.

12 (c) A qualifying health care organization as defined in section
13 42-5001 if the organization is dedicated to providing educational,
14 therapeutic, rehabilitative and family medical education training for blind,
15 AND visually impaired ~~and multihandicapped~~ children AND CHILDREN WITH
16 MULTIDISABILITIES from the time of birth to age twenty-one.

17 (d) A qualifying community health center as defined in section
18 42-5001.

19 (e) A nonprofit charitable organization that has qualified under
20 section 501(c)(3) of the internal revenue code and that regularly serves
21 meals to the needy and indigent on a continuing basis at no cost.

22 (f) For taxable periods beginning from and after June 30, 2001, a
23 nonprofit charitable organization that has qualified under section 501(c)(3)
24 of the internal revenue code and that provides residential apartment housing
25 for low income persons over sixty-two years of age in a facility that
26 qualifies for a federal housing subsidy, if the tangible personal property is
27 used by the organization solely to provide residential apartment housing for
28 low income persons over sixty-two years of age in a facility that qualifies
29 for a federal housing subsidy.

30 26. Magazines or other periodicals or other publications by this state
31 to encourage tourist travel.

32 27. Tangible personal property sold to a person that is subject to tax
33 under this article by reason of being engaged in business classified under
34 the prime contracting classification under section 42-5075 or to a
35 subcontractor working under the control of a prime contractor that is subject
36 to tax under article 1 of this chapter, if the property so sold is any of the
37 following:

38 (a) Incorporated or fabricated by the person into any real property,
39 structure, project, development or improvement as part of the business.

40 (b) Used in environmental response or remediation activities under
41 section 42-5075, subsection B, paragraph 6.

42 28. The sale of a motor vehicle to:

43 (a) A nonresident of this state if the purchaser's state of residence
44 does not allow a corresponding use tax exemption to the tax imposed by
45 article 1 of this chapter and if the nonresident has secured a special ninety

1 day nonresident registration permit for the vehicle as prescribed by sections
2 28-2154 and 28-2154.01.

3 (b) An enrolled member of an Indian tribe who resides on the Indian
4 reservation established for that tribe.

5 29. Tangible personal property purchased in this state by a nonprofit
6 charitable organization that has qualified under section 501(c)(3) of the
7 United States internal revenue code and that engages in and uses such
8 property exclusively in programs for ~~mentally or physically handicapped~~
9 persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are exclusively
10 for training, job placement, rehabilitation or testing.

11 30. Sales of tangible personal property by a nonprofit organization
12 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
13 of the internal revenue code if the organization is associated with a major
14 league baseball team or a national touring professional golfing association
15 and no part of the organization's net earnings inures to the benefit of any
16 private shareholder or individual.

17 31. Sales of commodities, as defined by title 7 United States Code
18 section 2, that are consigned for resale in a warehouse in this state in or
19 from which the commodity is deliverable on a contract for future delivery
20 subject to the rules of a commodity market regulated by the United States
21 commodity futures trading commission.

22 32. Sales of tangible personal property by a nonprofit organization
23 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
24 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
25 sponsors or operates a rodeo featuring primarily farm and ranch animals and
26 no part of the organization's net earnings inures to the benefit of any
27 private shareholder or individual.

28 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
29 propagative material to persons who use those items to commercially produce
30 agricultural, horticultural, viticultural or floricultural crops in this
31 state.

32 34. Machinery, equipment, technology or related supplies that are only
33 useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL
34 DISABILITY as defined in section 46-191, has a developmental disability as
35 defined in section 36-551 or has a head injury as defined in section 41-3201
36 to be more independent and functional.

37 35. Sales of natural gas or liquefied petroleum gas used to propel a
38 motor vehicle.

39 36. Paper machine clothing, such as forming fabrics and dryer felts,
40 sold to a paper manufacturer and directly used or consumed in paper
41 manufacturing.

42 37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
43 sold to a qualified environmental technology manufacturer, producer or
44 processor as defined in section 41-1514.02 and directly used or consumed in
45 the generation or provision of on-site power or energy solely for

1 environmental technology manufacturing, producing or processing or
2 environmental protection. This paragraph shall apply for twenty full
3 consecutive calendar or fiscal years from the date the first paper
4 manufacturing machine is placed in service. In the case of an environmental
5 technology manufacturer, producer or processor who does not manufacture
6 paper, the time period shall begin with the date the first manufacturing,
7 processing or production equipment is placed in service.

8 38. Sales of liquid, solid or gaseous chemicals used in manufacturing,
9 processing, fabricating, mining, refining, metallurgical operations, research
10 and development and, beginning on January 1, 1999, printing, if using or
11 consuming the chemicals, alone or as part of an integrated system of
12 chemicals, involves direct contact with the materials from which the product
13 is produced for the purpose of causing or permitting a chemical or physical
14 change to occur in the materials as part of the production process. This
15 paragraph does not include chemicals that are used or consumed in activities
16 such as packaging, storage or transportation but does not affect any
17 deduction for such chemicals that is otherwise provided by this section. For
18 the purposes of this paragraph, "printing" means a commercial printing
19 operation and includes job printing, engraving, embossing, copying and
20 bookbinding.

21 39. Through December 31, 1994, personal property liquidation
22 transactions, conducted by a personal property liquidator. From and after
23 December 31, 1994, personal property liquidation transactions shall be
24 taxable under this section provided that nothing in this subsection shall be
25 construed to authorize the taxation of casual activities or transactions
26 under this chapter. For the purposes of this paragraph:

27 (a) "Personal property liquidation transaction" means a sale of
28 personal property made by a personal property liquidator acting solely on
29 behalf of the owner of the personal property sold at the dwelling of the
30 owner or on the death of any owner, on behalf of the surviving spouse, if
31 any, any devisee or heir or the personal representative of the estate of the
32 deceased, if one has been appointed.

33 (b) "Personal property liquidator" means a person who is retained to
34 conduct a sale in a personal property liquidation transaction.

35 40. Sales of food, drink and condiment for consumption within the
36 premises of any prison, jail or other institution under the jurisdiction of
37 the state department of corrections, the department of public safety, the
38 department of juvenile corrections or a county sheriff.

39 41. A motor vehicle and any repair and replacement parts and tangible
40 personal property becoming a part of such motor vehicle sold to a motor
41 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
42 and who is engaged in the business of leasing or renting such property.

43 42. Livestock and poultry feed, salts, vitamins and other additives for
44 livestock or poultry consumption that are sold to persons who are engaged in
45 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

3 43. Sales of implants used as growth promotants and injectable
4 medicines, not already exempt under paragraph 8 of this subsection, for
5 livestock or poultry owned by or in possession of persons who are engaged in
6 producing livestock, poultry, or livestock or poultry products or who are
7 engaged in feeding livestock or poultry commercially. For the purposes of
8 this paragraph, "poultry" includes ratites.

9 44. Sales of motor vehicles at auction to nonresidents of this state
10 for use outside this state if the vehicles are shipped or delivered out of
11 this state, regardless of where title to the motor vehicles passes or its
12 free on board point.

13 45. Tangible personal property sold to a person engaged in business and
14 subject to tax under the transient lodging classification if the tangible
15 personal property is a personal hygiene item or articles used by human beings
16 for food, drink or condiment, except alcoholic beverages, that are furnished
17 without additional charge to and intended to be consumed by the transient
18 during the transient's occupancy.

19 46. Sales of alternative fuel, as defined in section 1-215, to a used
20 oil fuel burner who has received a permit to burn used oil or used oil fuel
21 under section 49-426 or 49-480.

22 47. Sales of materials that are purchased by or for publicly funded
23 libraries including school district libraries, charter school libraries,
24 community college libraries, state university libraries or federal, state,
25 county or municipal libraries for use by the public as follows:

26 (a) Printed or photographic materials, beginning August 7, 1985.

27 (b) Electronic or digital media materials, beginning July 17, 1994.

28 48. Tangible personal property sold to a commercial airline and
29 consisting of food, beverages and condiments and accessories used for serving
30 the food and beverages, if those items are to be provided without additional
31 charge to passengers for consumption in flight. For the purposes of this
32 paragraph, "commercial airline" means a person holding a federal certificate
33 of public convenience and necessity or foreign air carrier permit for air
34 transportation to transport persons, property or United States mail in
35 intrastate, interstate or foreign commerce.

36 49. Sales of alternative fuel vehicles if the vehicle was manufactured
37 as a diesel fuel vehicle and converted to operate on alternative fuel and
38 equipment that is installed in a conventional diesel fuel motor vehicle to
39 convert the vehicle to operate on an alternative fuel, as defined in section
40 1-215.

41 50. Sales of any spirituous, vinous or malt liquor by a person that is
42 licensed in this state as a wholesaler by the department of liquor licenses
43 and control pursuant to title 4, chapter 2, article 1.

1 51. Sales of tangible personal property to be incorporated or installed
2 as part of environmental response or remediation activities under section
3 42-5075, subsection B, paragraph 6.

4 52. Sales of tangible personal property by a nonprofit organization
5 that is exempt from taxation under section 501(c)(6) of the internal revenue
6 code if the organization produces, organizes or promotes cultural or civic
7 related festivals or events and no part of the organization's net earnings
8 inures to the benefit of any private shareholder or individual.

9 53. Through August 31, 2014, sales of Arizona centennial medallions by
10 the historical advisory commission.

11 54. Application services that are designed to assess or test student
12 learning or to promote curriculum design or enhancement purchased by or for
13 any school district, charter school, community college or state university.
14 For the purposes of this paragraph:

15 (a) "Application services" means software applications provided
16 remotely using hypertext transfer protocol or another network protocol.

17 (b) "Curriculum design or enhancement" means planning, implementing or
18 reporting on courses of study, lessons, assignments or other learning
19 activities.

20 55. Sales of motor vehicle fuel and use fuel to a qualified business
21 under section 41-1516 for off-road use in harvesting, processing or
22 transporting qualifying forest products removed from qualifying projects as
23 defined in section 41-1516.

24 56. Sales of repair parts installed in equipment used directly by a
25 qualified business under section 41-1516 in harvesting, processing or
26 transporting qualifying forest products removed from qualifying projects as
27 defined in section 41-1516.

28 57. Sales or other transfers of renewable energy credits or any other
29 unit created to track energy derived from renewable energy resources. For
30 the purposes of this paragraph, "renewable energy credit" means a unit
31 created administratively by the corporation commission or governing body of a
32 public power utility to track kilowatt hours of electricity derived from a
33 renewable energy resource or the kilowatt hour equivalent of conventional
34 energy resources displaced by distributed renewable energy resources.

35 B. In addition to the deductions from the tax base prescribed by
36 subsection A of this section, the gross proceeds of sales or gross income
37 derived from sales of the following categories of tangible personal property
38 shall be deducted from the tax base:

39 1. Machinery, or equipment, used directly in manufacturing,
40 processing, fabricating, job printing, refining or metallurgical operations.
41 The terms "manufacturing", "processing", "fabricating", "job printing",
42 "refining" and "metallurgical" as used in this paragraph refer to and include
43 those operations commonly understood within their ordinary meaning.
44 "Metallurgical operations" includes leaching, milling, precipitating,
45 smelting and refining.

1 2. Mining machinery, or equipment, used directly in the process of
2 extracting ores or minerals from the earth for commercial purposes, including
3 equipment required to prepare the materials for extraction and handling,
4 loading or transporting such extracted material to the surface. "Mining"
5 includes underground, surface and open pit operations for extracting ores and
6 minerals.

7 3. Tangible personal property sold to persons engaged in business
8 classified under the telecommunications classification and consisting of
9 central office switching equipment, switchboards, private branch exchange
10 equipment, microwave radio equipment and carrier equipment including optical
11 fiber, coaxial cable and other transmission media that are components of
12 carrier systems.

13 4. Machinery, equipment or transmission lines used directly in
14 producing or transmitting electrical power, but not including distribution.
15 Transformers and control equipment used at transmission substation sites
16 constitute equipment used in producing or transmitting electrical power.

17 5. Neat animals, horses, asses, sheep, raptures, swine or goats used or
18 to be used as breeding or production stock, including sales of breedings or
19 ownership shares in such animals used for breeding or production.

20 6. Pipes or valves four inches in diameter or larger used to transport
21 oil, natural gas, artificial gas, water or coal slurry, including compressor
22 units, regulators, machinery and equipment, fittings, seals and any other
23 part that is used in operating the pipes or valves.

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

26 (a) A person holding a federal certificate of public convenience and
27 necessity, a supplemental air carrier certificate under federal aviation
28 regulations (14 Code of Federal Regulations part 121) or a foreign air
29 carrier permit for air transportation for use as or in conjunction with or
30 becoming a part of aircraft to be used to transport persons, property or
31 United States mail in intrastate, interstate or foreign commerce.

32 (b) Any foreign government.

33 (c) Persons who are not residents of this state and who will not use
34 such property in this state other than in removing such property from this
35 state. This subdivision also applies to corporations that are not
36 incorporated in this state, regardless of maintaining a place of business in
37 this state, if the principal corporate office is located outside this state
38 and the property will not be used in this state other than in removing the
39 property from this state.

40 8. Machinery, tools, equipment and related supplies used or consumed
41 directly in repairing, remodeling or maintaining aircraft, aircraft engines
42 or aircraft component parts by or on behalf of a certificated or licensed
43 carrier of persons or property.

44 9. Railroad rolling stock, rails, ties and signal control equipment
45 used directly to transport persons or property.

1 10. Machinery or equipment used directly to drill for oil or gas or
2 used directly in the process of extracting oil or gas from the earth for
3 commercial purposes.

4 11. Buses or other urban mass transit vehicles that are used directly
5 to transport persons or property for hire or pursuant to a governmentally
6 adopted and controlled urban mass transportation program and that are sold to
7 bus companies holding a federal certificate of convenience and necessity or
8 operated by any city, town or other governmental entity or by any person
9 contracting with such governmental entity as part of a governmentally adopted
10 and controlled program to provide urban mass transportation.

11 12. Groundwater measuring devices required under section 45-604.

12 13. New machinery and equipment consisting of tractors, tractor-drawn
13 implements, self-powered implements, machinery and equipment necessary for
14 extracting milk, and machinery and equipment necessary for cooling milk and
15 livestock, and drip irrigation lines not already exempt under paragraph 6 of
16 this subsection and that are used for commercial production of agricultural,
17 horticultural, viticultural and floricultural crops and products in this
18 state. For the purposes of this paragraph:

19 (a) "New machinery and equipment" means machinery and equipment that
20 have never been sold at retail except pursuant to leases or rentals that do
21 not total two years or more.

22 (b) "Self-powered implements" includes machinery and equipment that
23 are electric-powered.

24 14. Machinery or equipment used in research and development. For the
25 purposes of this paragraph, "research and development" means basic and
26 applied research in the sciences and engineering, and designing, developing
27 or testing prototypes, processes or new products, including research and
28 development of computer software that is embedded in or an integral part of
29 the prototype or new product or that is required for machinery or equipment
30 otherwise exempt under this section to function effectively. Research and
31 development do not include manufacturing quality control, routine consumer
32 product testing, market research, sales promotion, sales service, research in
33 social sciences or psychology, computer software research that is not
34 included in the definition of research and development, or other
35 nontechnological activities or technical services.

36 15. Tangible personal property that is used by either of the following
37 to receive, store, convert, produce, generate, decode, encode, control or
38 transmit telecommunications information:

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations part 25.

41 (b) Any satellite television or data transmission facility, if both of
42 the following conditions are met:

43 (i) Over two-thirds of the transmissions, measured in megabytes,
44 transmitted by the facility during the test period were transmitted to or on
45 behalf of one or more direct broadcast satellite television or data

1 transmission services that operate pursuant to 47 Code of Federal Regulations
2 part 25.

3 (ii) Over two-thirds of the transmissions, measured in megabytes,
4 transmitted by or on behalf of those direct broadcast television or data
5 transmission services during the test period were transmitted by the facility
6 to or on behalf of those services.

7 For the purposes of subdivision (b) of this paragraph, "test period" means
8 the three hundred sixty-five day period beginning on the later of the date on
9 which the tangible personal property is purchased or the date on which the
10 direct broadcast satellite television or data transmission service first
11 transmits information to its customers.

12 16. Clean rooms that are used for manufacturing, processing,
13 fabrication or research and development, as defined in paragraph 14 of this
14 subsection, of semiconductor products. For the purposes of this paragraph,
15 "clean room" means all property that comprises or creates an environment
16 where humidity, temperature, particulate matter and contamination are
17 precisely controlled within specified parameters, without regard to whether
18 the property is actually contained within that environment or whether any of
19 the property is affixed to or incorporated into real property. Clean room:

20 (a) Includes the integrated systems, fixtures, piping, movable
21 partitions, lighting and all property that is necessary or adapted to reduce
22 contamination or to control airflow, temperature, humidity, chemical purity
23 or other environmental conditions or manufacturing tolerances, as well as the
24 production machinery and equipment operating in conjunction with the clean
25 room environment.

26 (b) Does not include the building or other permanent, nonremovable
27 component of the building that houses the clean room environment.

28 17. Machinery and equipment used directly in the feeding of poultry,
29 the environmental control of housing for poultry, the movement of eggs within
30 a production and packaging facility or the sorting or cooling of eggs. This
31 exemption does not apply to vehicles used for transporting eggs.

32 18. Machinery or equipment, including related structural components,
33 that is employed in connection with manufacturing, processing, fabricating,
34 job printing, refining, mining, natural gas pipelines, metallurgical
35 operations, telecommunications, producing or transmitting electricity or
36 research and development and that is used directly to meet or exceed rules or
37 regulations adopted by the federal energy regulatory commission, the United
38 States environmental protection agency, the United States nuclear regulatory
39 commission, the Arizona department of environmental quality or a political
40 subdivision of this state to prevent, monitor, control or reduce land, water
41 or air pollution.

42 19. Machinery and equipment that are sold to a person engaged in the
43 commercial production of livestock, livestock products or agricultural,
44 horticultural, viticultural or floricultural crops or products in this state

1 and that are used directly and primarily to prevent, monitor, control or
2 reduce air, water or land pollution.

3 20. Machinery or equipment that enables a television station to
4 originate and broadcast or to receive and broadcast digital television
5 signals and that was purchased to facilitate compliance with the
6 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
7 Code section 336) and the federal communications commission order issued
8 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
9 not exempt any of the following:

10 (a) Repair or replacement parts purchased for the machinery or
11 equipment described in this paragraph.

12 (b) Machinery or equipment purchased to replace machinery or equipment
13 for which an exemption was previously claimed and taken under this paragraph.

14 (c) Any machinery or equipment purchased after the television station
15 has ceased analog broadcasting, or purchased after November 1, 2009,
16 whichever occurs first.

17 21. Qualifying equipment that is purchased from and after June 30, 2004
18 through June 30, 2024 by a qualified business under section 41-1516 for
19 harvesting or processing qualifying forest products removed from qualifying
20 projects as defined in section 41-1516. To qualify for this deduction, the
21 qualified business at the time of purchase must present its certification
22 approved by the department.

23 C. The deductions provided by subsection B of this section do not
24 include sales of:

25 1. Expendable materials. For the purposes of this paragraph,
26 expendable materials do not include any of the categories of tangible
27 personal property specified in subsection B of this section regardless of the
28 cost or useful life of that property.

29 2. Janitorial equipment and hand tools.

30 3. Office equipment, furniture and supplies.

31 4. Tangible personal property used in selling or distributing
32 activities, other than the telecommunications transmissions described in
33 subsection B, paragraph 15 of this section.

34 5. Motor vehicles required to be licensed by this state, except buses
35 or other urban mass transit vehicles specifically exempted pursuant to
36 subsection B, paragraph 11 of this section, without regard to the use of such
37 motor vehicles.

38 6. Shops, buildings, docks, depots and all other materials of whatever
39 kind or character not specifically included as exempt.

40 7. Motors and pumps used in drip irrigation systems.

41 8. Machinery and equipment or other tangible personal property used by
42 a contractor in the performance of a contract.

43 D. In addition to the deductions from the tax base prescribed by
44 subsection A of this section, there shall be deducted from the tax base the
45 gross proceeds of sales or gross income derived from sales of machinery,

1 equipment, materials and other tangible personal property used directly and
2 predominantly to construct a qualified environmental technology
3 manufacturing, producing or processing facility as described in section
4 41-1514.02. This subsection applies for ten full consecutive calendar or
5 fiscal years after the start of initial construction.

6 E. In computing the tax base, gross proceeds of sales or gross income
7 from retail sales of heavy trucks and trailers does not include any amount
8 attributable to federal excise taxes imposed by 26 United States Code section
9 4051.

10 F. In computing the tax base, gross proceeds of sales or gross income
11 from the sale of use fuel, as defined in section 28-5601, does not include
12 any amount attributable to federal excise taxes imposed by 26 United States
13 Code section 4091.

14 G. If a person is engaged in an occupation or business to which
15 subsection A of this section applies, the person's books shall be kept so as
16 to show separately the gross proceeds of sales of tangible personal property
17 and the gross income from sales of services, and if not so kept the tax shall
18 be imposed on the total of the person's gross proceeds of sales of tangible
19 personal property and gross income from services.

20 H. If a person is engaged in the business of selling tangible personal
21 property at both wholesale and retail, the tax under this section applies
22 only to the gross proceeds of the sales made other than at wholesale if the
23 person's books are kept so as to show separately the gross proceeds of sales
24 of each class, and if the books are not so kept, the tax under this section
25 applies to the gross proceeds of every sale so made.

26 I. A person who engages in manufacturing, baling, crating, boxing,
27 barreling, canning, bottling, sacking, preserving, processing or otherwise
28 preparing for sale or commercial use any livestock, agricultural or
29 horticultural product or any other product, article, substance or commodity
30 and who sells the product of such business at retail in this state is deemed,
31 as to such sales, to be engaged in business classified under the retail
32 classification. This subsection does not apply to businesses classified
33 under the:

- 34 1. Transporting classification.
- 35 2. Utilities classification.
- 36 3. Telecommunications classification.
- 37 4. Pipeline classification.
- 38 5. Private car line classification.
- 39 6. Publication classification.
- 40 7. Job printing classification.
- 41 8. Prime contracting classification.
- 42 9. Restaurant classification.

43 J. The gross proceeds of sales or gross income derived from the
44 following shall be deducted from the tax base for the retail classification:

1 1. Sales made directly to the United States government or its
2 departments or agencies by a manufacturer, modifier, assembler or repairer.

3 2. Sales made directly to a manufacturer, modifier, assembler or
4 repairer if such sales are of any ingredient or component part of products
5 sold directly to the United States government or its departments or agencies
6 by the manufacturer, modifier, assembler or repairer.

7 3. Overhead materials or other tangible personal property that is used
8 in performing a contract between the United States government and a
9 manufacturer, modifier, assembler or repairer, including property used in
10 performing a subcontract with a government contractor who is a manufacturer,
11 modifier, assembler or repairer, to which title passes to the government
12 under the terms of the contract or subcontract.

13 4. Sales of overhead materials or other tangible personal property to
14 a manufacturer, modifier, assembler or repairer if the gross proceeds of
15 sales or gross income derived from the property by the manufacturer,
16 modifier, assembler or repairer will be exempt under paragraph 3 of this
17 subsection.

18 K. There shall be deducted from the tax base fifty per cent of the
19 gross proceeds or gross income from any sale of tangible personal property
20 made directly to the United States government or its departments or agencies
21 that is not deducted under subsection J of this section.

22 L. The department shall require every person claiming a deduction
23 provided by subsection J or K of this section to file on forms prescribed by
24 the department at such times as the department directs a sworn statement
25 disclosing the name of the purchaser and the exact amount of sales on which
26 the exclusion or deduction is claimed.

27 M. In computing the tax base, gross proceeds of sales or gross income
28 does not include:

29 1. A manufacturer's cash rebate on the sales price of a motor vehicle
30 if the buyer assigns the buyer's right in the rebate to the retailer.

31 2. The waste tire disposal fee imposed pursuant to section 44-1302.

32 N. There shall be deducted from the tax base the amount received from
33 sales of solar energy devices. The retailer shall register with the
34 department as a solar energy retailer. By registering, the retailer
35 acknowledges that it will make its books and records relating to sales of
36 solar energy devices available to the department for examination.

37 O. In computing the tax base in the case of the sale or transfer of
38 wireless telecommunications equipment as an inducement to a customer to enter
39 into or continue a contract for telecommunications services that are taxable
40 under section 42-5064, gross proceeds of sales or gross income does not
41 include any sales commissions or other compensation received by the retailer
42 as a result of the customer entering into or continuing a contract for the
43 telecommunications services.

44 P. For the purposes of this section, a sale of wireless
45 telecommunications equipment to a person who holds the equipment for sale or

1 transfer to a customer as an inducement to enter into or continue a contract
2 for telecommunications services that are taxable under section 42-5064 is
3 considered to be a sale for resale in the regular course of business.

4 Q. Retail sales of prepaid calling cards or prepaid authorization
5 numbers for telecommunications services, including sales of reauthorization
6 of a prepaid card or authorization number, are subject to tax under this
7 section.

8 R. For the purposes of this section, the diversion of gas from a
9 pipeline by a person engaged in the business of:

10 1. Operating a natural or artificial gas pipeline, for the sole
11 purpose of fueling compressor equipment to pressurize the pipeline, is not a
12 sale of the gas to the operator of the pipeline.

13 2. Converting natural gas into liquefied natural gas, for the sole
14 purpose of fueling compressor equipment used in the conversion process, is
15 not a sale of gas to the operator of the compressor equipment.

16 S. If a seller is entitled to a deduction pursuant to subsection B,
17 paragraph 15, subdivision (b) of this section, the department may require the
18 purchaser to establish that the requirements of subsection B, paragraph 15,
19 subdivision (b) of this section have been satisfied. If the purchaser cannot
20 establish that the requirements of subsection B, paragraph 15, subdivision
21 (b) of this section have been satisfied, the purchaser is liable in an amount
22 equal to any tax, penalty and interest which the seller would have been
23 required to pay under article 1 of this chapter if the seller had not made a
24 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this
25 section. Payment of the amount under this subsection exempts the purchaser
26 from liability for any tax imposed under article 4 of this chapter and
27 related to the tangible personal property purchased. The amount shall be
28 treated as transaction privilege tax to the purchaser and as tax revenues
29 collected from the seller to designate the distribution base pursuant to
30 section 42-5029.

31 T. For the purposes of section 42-5032.01, the department shall
32 separately account for revenues collected under the retail classification
33 from businesses selling tangible personal property at retail:

34 1. On the premises of a multipurpose facility that is owned, leased or
35 operated by the tourism and sports authority pursuant to title 5, chapter 8.

36 2. At professional football contests that are held in a stadium
37 located on the campus of an institution under the jurisdiction of the Arizona
38 board of regents.

39 U. In computing the tax base for the sale of a motor vehicle to a
40 nonresident of this state, if the purchaser's state of residence allows a
41 corresponding use tax exemption to the tax imposed by article 1 of this
42 chapter and the rate of the tax in the purchaser's state of residence is
43 lower than the rate prescribed in article 1 of this chapter or if the
44 purchaser's state of residence does not impose an excise tax, and the
45 nonresident has secured a special ninety day nonresident registration permit

1 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
2 be deducted from the tax base a portion of the gross proceeds or gross income
3 from the sale so that the amount of transaction privilege tax that is paid in
4 this state is equal to the excise tax that is imposed by the purchaser's
5 state of residence on the nonexempt sale or use of the motor vehicle.

6 V. For the purposes of this section:

7 1. "Aircraft" includes:

8 (a) An airplane flight simulator that is approved by the federal
9 aviation administration for use as a phase II or higher flight simulator
10 under appendix H, 14 Code of Federal Regulations part 121.

11 (b) Tangible personal property that is permanently affixed or attached
12 as a component part of an aircraft that is owned or operated by a
13 certificated or licensed carrier of persons or property.

14 2. "Other accessories and related equipment" includes aircraft
15 accessories and equipment such as ground service equipment that physically
16 contact aircraft at some point during the overall carrier operation.

17 3. "Selling at retail" means a sale for any purpose other than for
18 resale in the regular course of business in the form of tangible personal
19 property, but transfer of possession, lease and rental as used in the
20 definition of sale mean only such transactions as are found on investigation
21 to be in lieu of sales as defined without the words lease or rental.

22 W. For the purposes of subsection J of this section:

23 1. "Assembler" means a person who unites or combines products, wares
24 or articles of manufacture so as to produce a change in form or substance
25 without changing or altering the component parts.

26 2. "Manufacturer" means a person who is principally engaged in the
27 fabrication, production or manufacture of products, wares or articles for use
28 from raw or prepared materials, imparting to those materials new forms,
29 qualities, properties and combinations.

30 3. "Modifier" means a person who reworks, changes or adds to products,
31 wares or articles of manufacture.

32 4. "Overhead materials" means tangible personal property, the gross
33 proceeds of sales or gross income derived from that would otherwise be
34 included in the retail classification, and that are used or consumed in the
35 performance of a contract, the cost of which is charged to an overhead
36 expense account and allocated to various contracts based on generally
37 accepted accounting principles and consistent with government contract
38 accounting standards.

39 5. "Repairer" means a person who restores or renews products, wares or
40 articles of manufacture.

41 6. "Subcontract" means an agreement between a contractor and any
42 person who is not an employee of the contractor for furnishing of supplies or
43 services that, in whole or in part, are necessary to the performance of one
44 or more government contracts, or under which any portion of the contractor's
45 obligation under one or more government contracts is performed, undertaken or

1 assumed and that includes provisions causing title to overhead materials or
2 other tangible personal property used in the performance of the subcontract
3 to pass to the government or that includes provisions incorporating such
4 title passing clauses in a government contract into the subcontract. For the
5 purposes of this paragraph, "contractor" has its ordinary and common meaning
6 ~~and does not have the meaning prescribed by section 42-5001.~~

7 Sec. 202. Section 42-5159, Arizona Revised Statutes, as amended by
8 Laws 2013, first special session, chapter 9, section 7, is amended to read:
9 42-5159. Exemptions

10 A. The tax levied by this article does not apply to the storage, use
11 or consumption in this state of the following described tangible personal
12 property:

13 1. Tangible personal property sold in this state, the gross receipts
14 from the sale of which are included in the measure of the tax imposed by
15 articles 1 and 2 of this chapter.

16 2. Tangible personal property the sale or use of which has already
17 been subjected to an excise tax at a rate equal to or exceeding the tax
18 imposed by this article under the laws of another state of the United States.
19 If the excise tax imposed by the other state is at a rate less than the tax
20 imposed by this article, the tax imposed by this article is reduced by the
21 amount of the tax already imposed by the other state.

22 3. Tangible personal property, the storage, use or consumption of
23 which the constitution or laws of the United States prohibit this state from
24 taxing or to the extent that the rate or imposition of tax is
25 unconstitutional under the laws of the United States.

26 4. Tangible personal property which directly enters into and becomes
27 an ingredient or component part of any manufactured, fabricated or processed
28 article, substance or commodity for sale in the regular course of business.

29 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
30 which in this state is subject to the tax imposed under title 28, chapter 16,
31 article 1, use fuel which is sold to or used by a person holding a valid
32 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
33 the sales, distribution or use of which in this state is subject to the tax
34 imposed under section 28-8344, and jet fuel, the sales, distribution or use
35 of which in this state is subject to the tax imposed under article 8 of this
36 chapter.

37 6. Tangible personal property brought into this state by an individual
38 who was a nonresident at the time the property was purchased for storage, use
39 or consumption by the individual if the first actual use or consumption of
40 the property was outside this state, unless the property is used in
41 conducting a business in this state.

42 7. Purchases of implants used as growth promotants and injectable
43 medicines, not already exempt under paragraph 16 of this subsection, for
44 livestock and poultry owned by, or in possession of, persons who are engaged
45 in producing livestock, poultry, or livestock or poultry products, or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

3 8. Livestock, poultry, supplies, feed, salts, vitamins and other
4 additives for use or consumption in the businesses of farming, ranching and
5 feeding livestock or poultry, not including fertilizers, herbicides and
6 insecticides. For the purposes of this paragraph, "poultry" includes
7 ratites.

8 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
9 material for use in commercially producing agricultural, horticultural,
10 viticultural or floricultural crops in this state.

11 10. Tangible personal property not exceeding two hundred dollars in any
12 one month purchased by an individual at retail outside the continental limits
13 of the United States for the individual's own personal use and enjoyment.

14 11. Advertising supplements which are intended for sale with newspapers
15 published in this state and which have already been subjected to an excise
16 tax under the laws of another state in the United States which equals or
17 exceeds the tax imposed by this article.

18 12. Materials that are purchased by or for publicly funded libraries
19 including school district libraries, charter school libraries, community
20 college libraries, state university libraries or federal, state, county or
21 municipal libraries for use by the public as follows:

22 (a) Printed or photographic materials, beginning August 7, 1985.

23 (b) Electronic or digital media materials, beginning July 17, 1994.

24 13. Tangible personal property purchased by:

25 (a) A hospital organized and operated exclusively for charitable
26 purposes, no part of the net earnings of which inures to the benefit of any
27 private shareholder or individual.

28 (b) A hospital operated by this state or a political subdivision of
29 this state.

30 (c) A licensed nursing care institution or a licensed residential care
31 institution or a residential care facility operated in conjunction with a
32 licensed nursing care institution or a licensed kidney dialysis center, which
33 provides medical services, nursing services or health related services and is
34 not used or held for profit.

35 (d) A qualifying health care organization, as defined in section
36 42-5001, if the tangible personal property is used by the organization solely
37 to provide health and medical related educational and charitable services.

38 (e) A qualifying health care organization as defined in section
39 42-5001 if the organization is dedicated to providing educational,
40 therapeutic, rehabilitative and family medical education training for
41 blind, ~~AND~~ visually impaired ~~and multihandicapped~~ children ~~AND CHILDREN WITH~~
42 ~~MULTIDISABILITIES~~ from the time of birth to age twenty-one.

43 (f) A nonprofit charitable organization that has qualified under
44 section 501(c)(3) of the United States internal revenue code and that engages
45 in and uses such property exclusively in programs for ~~mentally or physically~~

1 ~~handicapped~~ persons WITH MENTAL OR PHYSICAL DISABILITIES if the programs are
2 exclusively for training, job placement, rehabilitation or testing.

3 (g) A person that is subject to tax under article 1 of this chapter by
4 reason of being engaged in business classified under the prime contracting
5 classification under section 42-5075, or a subcontractor working under the
6 control of a prime contractor, if the tangible personal property is any of
7 the following:

8 (i) Incorporated or fabricated by the contractor into a structure,
9 project, development or improvement in fulfillment of a contract.

10 (ii) Used in environmental response or remediation activities under
11 section 42-5075, subsection B, paragraph 6.

12 (h) A nonprofit charitable organization that has qualified under
13 section 501(c)(3) of the internal revenue code if the property is purchased
14 from the parent or an affiliate organization that is located outside this
15 state.

16 (i) A qualifying community health center as defined in section
17 42-5001.

18 (j) A nonprofit charitable organization that has qualified under
19 section 501(c)(3) of the internal revenue code and that regularly serves
20 meals to the needy and indigent on a continuing basis at no cost.

21 (k) A person engaged in business under the transient lodging
22 classification if the property is a personal hygiene item or articles used by
23 human beings for food, drink or condiment, except alcoholic beverages, which
24 are furnished without additional charge to and intended to be consumed by the
25 transient during the transient's occupancy.

26 (l) For taxable periods beginning from and after June 30, 2001, a
27 nonprofit charitable organization that has qualified under section 501(c)(3)
28 of the internal revenue code and that provides residential apartment housing
29 for low income persons over sixty-two years of age in a facility that
30 qualifies for a federal housing subsidy, if the tangible personal property is
31 used by the organization solely to provide residential apartment housing for
32 low income persons over sixty-two years of age in a facility that qualifies
33 for a federal housing subsidy.

34 14. Commodities, as defined by title 7 United States Code section 2,
35 that are consigned for resale in a warehouse in this state in or from which
36 the commodity is deliverable on a contract for future delivery subject to the
37 rules of a commodity market regulated by the United States commodity futures
38 trading commission.

39 15. Tangible personal property sold by:

40 (a) Any nonprofit organization organized and operated exclusively for
41 charitable purposes and recognized by the United States internal revenue
42 service under section 501(c)(3) of the internal revenue code.

43 (b) A nonprofit organization that is exempt from taxation under
44 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
45 organization is associated with a major league baseball team or a national

1 touring professional golfing association and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.

3 (c) A nonprofit organization that is exempt from taxation under
4 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
5 internal revenue code if the organization sponsors or operates a rodeo
6 featuring primarily farm and ranch animals and no part of the organization's
7 net earnings inures to the benefit of any private shareholder or individual.

8 16. Drugs and medical oxygen, including delivery hose, mask or tent,
9 regulator and tank, on the prescription of a member of the medical, dental or
10 veterinarian profession who is licensed by law to administer such substances.

11 17. Prosthetic appliances, as defined in section 23-501, prescribed or
12 recommended by a person who is licensed, registered or otherwise
13 professionally credentialed as a physician, dentist, podiatrist,
14 chiropractor, naturopath, homeopath, nurse or optometrist.

15 18. Prescription eyeglasses and contact lenses.

16 19. Insulin, insulin syringes and glucose test strips.

17 20. Hearing aids as defined in section 36-1901.

18 21. Durable medical equipment which has a centers for medicare and
19 medicaid services common procedure code, is designated reimbursable by
20 medicare, is prescribed by a person who is licensed under title 32, chapter
21 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
22 used to serve a medical purpose, is generally not useful to a person in the
23 absence of illness or injury and is appropriate for use in the home.

24 22. Food, as provided in and subject to the conditions of article 3 of
25 this chapter and section 42-5074.

26 23. Items purchased with United States department of agriculture food
27 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
28 958) or food instruments issued under section 17 of the child nutrition act
29 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
30 section 1786).

31 24. Food and drink provided without monetary charge by a taxpayer which
32 is subject to section 42-5074 to its employees for their own consumption on
33 the premises during the employees' hours of employment.

34 25. Tangible personal property that is used or consumed in a business
35 subject to section 42-5074 for human food, drink or condiment, whether
36 simple, mixed or compounded.

37 26. Food, drink or condiment and accessory tangible personal property
38 that are acquired for use by or provided to a school district or charter
39 school if they are to be either served or prepared and served to persons for
40 consumption on the premises of a public school in the school district or on
41 the premises of the charter school during school hours.

42 27. Lottery tickets or shares purchased pursuant to title 5, chapter
43 5.1, article 1.

44 28. Textbooks, sold by a bookstore, that are required by any state
45 university or community college.

1 29. Magazines, other periodicals or other publications produced by this
2 state to encourage tourist travel.

3 30. Paper machine clothing, such as forming fabrics and dryer felts,
4 purchased by a paper manufacturer and directly used or consumed in paper
5 manufacturing.

6 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
7 purchased by a qualified environmental technology manufacturer, producer or
8 processor as defined in section 41-1514.02 and directly used or consumed in
9 the generation or provision of on-site power or energy solely for
10 environmental technology manufacturing, producing or processing or
11 environmental protection. This paragraph shall apply for twenty full
12 consecutive calendar or fiscal years from the date the first paper
13 manufacturing machine is placed in service. In the case of an environmental
14 technology manufacturer, producer or processor who does not manufacture
15 paper, the time period shall begin with the date the first manufacturing,
16 processing or production equipment is placed in service.

17 32. Motor vehicles that are removed from inventory by a motor vehicle
18 dealer as defined in section 28-4301 and that are provided to:

19 (a) Charitable or educational institutions that are exempt from
20 taxation under section 501(c)(3) of the internal revenue code.

21 (b) Public educational institutions.

22 (c) State universities or affiliated organizations of a state
23 university if no part of the organization's net earnings inures to the
24 benefit of any private shareholder or individual.

25 33. Natural gas or liquefied petroleum gas used to propel a motor
26 vehicle.

27 34. Machinery, equipment, technology or related supplies that are only
28 useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL
29 DISABILITY as defined in section 46-191, has a developmental disability as
30 defined in section 36-551 or has a head injury as defined in section 41-3201
31 to be more independent and functional.

32 35. Liquid, solid or gaseous chemicals used in manufacturing,
33 processing, fabricating, mining, refining, metallurgical operations, research
34 and development and, beginning on January 1, 1999, printing, if using or
35 consuming the chemicals, alone or as part of an integrated system of
36 chemicals, involves direct contact with the materials from which the product
37 is produced for the purpose of causing or permitting a chemical or physical
38 change to occur in the materials as part of the production process. This
39 paragraph does not include chemicals that are used or consumed in activities
40 such as packaging, storage or transportation but does not affect any
41 exemption for such chemicals that is otherwise provided by this section. For
42 the purposes of this paragraph, "printing" means a commercial printing
43 operation and includes job printing, engraving, embossing, copying and
44 bookbinding.

1 36. Food, drink and condiment purchased for consumption within the
2 premises of any prison, jail or other institution under the jurisdiction of
3 the state department of corrections, the department of public safety, the
4 department of juvenile corrections or a county sheriff.

5 37. A motor vehicle and any repair and replacement parts and tangible
6 personal property becoming a part of such motor vehicle sold to a motor
7 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
8 and who is engaged in the business of leasing or renting such property.

9 38. Tangible personal property which is or directly enters into and
10 becomes an ingredient or component part of cards used as prescription plan
11 identification cards.

12 39. Overhead materials or other tangible personal property that is used
13 in performing a contract between the United States government and a
14 manufacturer, modifier, assembler or repairer, including property used in
15 performing a subcontract with a government contractor who is a manufacturer,
16 modifier, assembler or repairer, to which title passes to the government
17 under the terms of the contract or subcontract. For the purposes of this
18 paragraph:

19 (a) "Overhead materials" means tangible personal property, the gross
20 proceeds of sales or gross income derived from which would otherwise be
21 included in the retail classification, and which are used or consumed in the
22 performance of a contract, the cost of which is charged to an overhead
23 expense account and allocated to various contracts based upon generally
24 accepted accounting principles and consistent with government contract
25 accounting standards.

26 (b) "Subcontract" means an agreement between a contractor and any
27 person who is not an employee of the contractor for furnishing of supplies or
28 services that, in whole or in part, are necessary to the performance of one
29 or more government contracts, or under which any portion of the contractor's
30 obligation under one or more government contracts is performed, undertaken or
31 assumed, and that includes provisions causing title to overhead materials or
32 other tangible personal property used in the performance of the subcontract
33 to pass to the government or that includes provisions incorporating such
34 title passing clauses in a government contract into the subcontract.

35 40. Through December 31, 1994, tangible personal property sold pursuant
36 to a personal property liquidation transaction, as defined in section
37 42-5061. From and after December 31, 1994, tangible personal property sold
38 pursuant to a personal property liquidation transaction, as defined in
39 section 42-5061, if the gross proceeds of the sales were included in the
40 measure of the tax imposed by article 1 of this chapter or if the personal
41 property liquidation was a casual activity or transaction.

42 41. Wireless telecommunications equipment that is held for sale or
43 transfer to a customer as an inducement to enter into or continue a contract
44 for telecommunications services that are taxable under section 42-5064.

1 42. Alternative fuel, as defined in section 1-215, purchased by a used
2 oil fuel burner who has received a permit to burn used oil or used oil fuel
3 under section 49-426 or 49-480.

4 43. Tangible personal property purchased by a commercial airline and
5 consisting of food, beverages and condiments and accessories used for serving
6 the food and beverages, if those items are to be provided without additional
7 charge to passengers for consumption in flight. For the purposes of this
8 paragraph, "commercial airline" means a person holding a federal certificate
9 of public convenience and necessity or foreign air carrier permit for air
10 transportation to transport persons, property or United States mail in
11 intrastate, interstate or foreign commerce.

12 44. Alternative fuel vehicles if the vehicle was manufactured as a
13 diesel fuel vehicle and converted to operate on alternative fuel and
14 equipment that is installed in a conventional diesel fuel motor vehicle to
15 convert the vehicle to operate on an alternative fuel, as defined in section
16 1-215.

17 45. Gas diverted from a pipeline, by a person engaged in the business
18 of:

19 (a) Operating a natural or artificial gas pipeline, and used or
20 consumed for the sole purpose of fueling compressor equipment that
21 pressurizes the pipeline.

22 (b) Converting natural gas into liquefied natural gas, and used or
23 consumed for the sole purpose of fueling compressor equipment used in the
24 conversion process.

25 46. Tangible personal property that is excluded, exempt or deductible
26 from transaction privilege tax pursuant to section 42-5063.

27 47. Tangible personal property purchased to be incorporated or
28 installed as part of environmental response or remediation activities under
29 section 42-5075, subsection B, paragraph 6.

30 48. Tangible personal property sold by a nonprofit organization that is
31 exempt from taxation under section 501(c)(6) of the internal revenue code if
32 the organization produces, organizes or promotes cultural or civic related
33 festivals or events and no part of the organization's net earnings inures to
34 the benefit of any private shareholder or individual.

35 49. Prepared food, drink or condiment donated by a restaurant as
36 classified in section 42-5074, subsection A to a nonprofit charitable
37 organization that has qualified under section 501(c)(3) of the internal
38 revenue code and that regularly serves meals to the needy and indigent on a
39 continuing basis at no cost.

40 50. Application services that are designed to assess or test student
41 learning or to promote curriculum design or enhancement purchased by or for
42 any school district, charter school, community college or state university.
43 For the purposes of this paragraph:

44 (a) "Application services" means software applications provided
45 remotely using hypertext transfer protocol or another network protocol.

1 (b) "Curriculum design or enhancement" means planning, implementing or
2 reporting on courses of study, lessons, assignments or other learning
3 activities.

4 51. Motor vehicle fuel and use fuel to a qualified business under
5 section 41-1516 for off-road use in harvesting, processing or transporting
6 qualifying forest products removed from qualifying projects as defined in
7 section 41-1516.

8 52. Repair parts installed in equipment used directly by a qualified
9 business under section 41-1516 in harvesting, processing or transporting
10 qualifying forest products removed from qualifying projects as defined in
11 section 41-1516.

12 53. Renewable energy credits or any other unit created to track energy
13 derived from renewable energy resources. For the purposes of this paragraph,
14 "renewable energy credit" means a unit created administratively by the
15 corporation commission or governing body of a public power entity to track
16 kilowatt hours of electricity derived from a renewable energy resource or the
17 kilowatt hour equivalent of conventional energy resources displaced by
18 distributed renewable energy resources.

19 54. Computer data center equipment purchased by the owner, operator or
20 qualified colocation tenant of the computer data center or an authorized
21 agent of the owner, operator or qualified colocation tenant during the
22 qualification period for use in a computer data center that is certified by
23 the Arizona commerce authority under section 41-1519. To qualify for this
24 deduction, at the time of purchase, the owner, operator or qualified
25 colocation tenant must present to the retailer its certificate that is issued
26 pursuant to section 41-1519 and that establishes its qualification for the
27 deduction. For the purposes of this paragraph, "computer data center",
28 "computer data center equipment", "qualification period" and "qualified
29 colocation tenant" have the same meanings prescribed in section 41-1519.

30 B. In addition to the exemptions allowed by subsection A of this
31 section, the following categories of tangible personal property are also
32 exempt:

33 1. Machinery, or equipment, used directly in manufacturing,
34 processing, fabricating, job printing, refining or metallurgical operations.
35 The terms "manufacturing", "processing", "fabricating", "job printing",
36 "refining" and "metallurgical" as used in this paragraph refer to and include
37 those operations commonly understood within their ordinary meaning.
38 "Metallurgical operations" includes leaching, milling, precipitating,
39 smelting and refining.

40 2. Machinery, or equipment, used directly in the process of extracting
41 ores or minerals from the earth for commercial purposes, including equipment
42 required to prepare the materials for extraction and handling, loading or
43 transporting such extracted material to the surface. "Mining" includes
44 underground, surface and open pit operations for extracting ores
45 and minerals.

1 3. Tangible personal property sold to persons engaged in business
2 classified under the telecommunications classification under section 42-5064
3 and consisting of central office switching equipment, switchboards, private
4 branch exchange equipment, microwave radio equipment and carrier equipment
5 including optical fiber, coaxial cable and other transmission media which are
6 components of carrier systems.

7 4. Machinery, equipment or transmission lines used directly in
8 producing or transmitting electrical power, but not including distribution.
9 Transformers and control equipment used at transmission substation sites
10 constitute equipment used in producing or transmitting electrical power.

11 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
12 to be used as breeding or production stock, including sales of breedings or
13 ownership shares in such animals used for breeding or production.

14 6. Pipes or valves four inches in diameter or larger used to transport
15 oil, natural gas, artificial gas, water or coal slurry, including compressor
16 units, regulators, machinery and equipment, fittings, seals and any other
17 part that is used in operating the pipes or valves.

18 7. Aircraft, navigational and communication instruments and other
19 accessories and related equipment sold to:

20 (a) A person holding a federal certificate of public convenience and
21 necessity, a supplemental air carrier certificate under federal aviation
22 regulations (14 Code of Federal Regulations part 121) or a foreign air
23 carrier permit for air transportation for use as or in conjunction with or
24 becoming a part of aircraft to be used to transport persons, property or
25 United States mail in intrastate, interstate or foreign commerce.

26 (b) Any foreign government, or sold to persons who are not residents
27 of this state and who will not use such property in this state other than in
28 removing such property from this state.

29 8. Machinery, tools, equipment and related supplies used or consumed
30 directly in repairing, remodeling or maintaining aircraft, aircraft engines
31 or aircraft component parts by or on behalf of a certificated or licensed
32 carrier of persons or property.

33 9. Rolling stock, rails, ties and signal control equipment used
34 directly to transport persons or property.

35 10. Machinery or equipment used directly to drill for oil or gas or
36 used directly in the process of extracting oil or gas from the earth for
37 commercial purposes.

38 11. Buses or other urban mass transit vehicles which are used directly
39 to transport persons or property for hire or pursuant to a governmentally
40 adopted and controlled urban mass transportation program and which are sold
41 to bus companies holding a federal certificate of convenience and necessity
42 or operated by any city, town or other governmental entity or by any person
43 contracting with such governmental entity as part of a governmentally adopted
44 and controlled program to provide urban mass transportation.

45 12. Groundwater measuring devices required under section 45-604.

1 13. New machinery and equipment consisting of tractors, tractor-drawn
2 implements, self-powered implements, machinery and equipment necessary for
3 extracting milk, and machinery and equipment necessary for cooling milk and
4 livestock, and drip irrigation lines not already exempt under paragraph 6 of
5 this subsection and that are used for commercial production of agricultural,
6 horticultural, viticultural and floricultural crops and products in this
7 state. For the purposes of this paragraph:

8 (a) "New machinery and equipment" means machinery or equipment which
9 has never been sold at retail except pursuant to leases or rentals which do
10 not total two years or more.

11 (b) "Self-powered implements" includes machinery and equipment that
12 are electric-powered.

13 14. Machinery or equipment used in research and development. For the
14 purposes of this paragraph, "research and development" means basic and
15 applied research in the sciences and engineering, and designing, developing
16 or testing prototypes, processes or new products, including research and
17 development of computer software that is embedded in or an integral part of
18 the prototype or new product or that is required for machinery or equipment
19 otherwise exempt under this section to function effectively. Research and
20 development do not include manufacturing quality control, routine consumer
21 product testing, market research, sales promotion, sales service, research in
22 social sciences or psychology, computer software research that is not
23 included in the definition of research and development, or other
24 nontechnological activities or technical services.

25 15. Tangible personal property that is used by either of the following
26 to receive, store, convert, produce, generate, decode, encode, control or
27 transmit telecommunications information:

28 (a) Any direct broadcast satellite television or data transmission
29 service that operates pursuant to 47 Code of Federal Regulations part 25.

30 (b) Any satellite television or data transmission facility, if both of
31 the following conditions are met:

32 (i) Over two-thirds of the transmissions, measured in megabytes,
33 transmitted by the facility during the test period were transmitted to or on
34 behalf of one or more direct broadcast satellite television or data
35 transmission services that operate pursuant to 47 Code of Federal Regulations
36 part 25.

37 (ii) Over two-thirds of the transmissions, measured in megabytes,
38 transmitted by or on behalf of those direct broadcast television or data
39 transmission services during the test period were transmitted by the facility
40 to or on behalf of those services.

41 For the purposes of subdivision (b) of this paragraph, "test period" means
42 the three hundred sixty-five day period beginning on the later of the date on
43 which the tangible personal property is purchased or the date on which the
44 direct broadcast satellite television or data transmission service first
45 transmits information to its customers.

1 16. Clean rooms that are used for manufacturing, processing,
2 fabrication or research and development, as defined in paragraph 14 of this
3 subsection, of semiconductor products. For the purposes of this paragraph,
4 "clean room" means all property that comprises or creates an environment
5 where humidity, temperature, particulate matter and contamination are
6 precisely controlled within specified parameters, without regard to whether
7 the property is actually contained within that environment or whether any of
8 the property is affixed to or incorporated into real property. Clean room:

9 (a) Includes the integrated systems, fixtures, piping, movable
10 partitions, lighting and all property that is necessary or adapted to reduce
11 contamination or to control airflow, temperature, humidity, chemical purity
12 or other environmental conditions or manufacturing tolerances, as well as the
13 production machinery and equipment operating in conjunction with the clean
14 room environment.

15 (b) Does not include the building or other permanent, nonremovable
16 component of the building that houses the clean room environment.

17 17. Machinery and equipment that are used directly in the feeding of
18 poultry, the environmental control of housing for poultry, the movement of
19 eggs within a production and packaging facility or the sorting or cooling of
20 eggs. This exemption does not apply to vehicles used for transporting eggs.

21 18. Machinery or equipment, including related structural components,
22 that is employed in connection with manufacturing, processing, fabricating,
23 job printing, refining, mining, natural gas pipelines, metallurgical
24 operations, telecommunications, producing or transmitting electricity or
25 research and development and that is used directly to meet or exceed rules or
26 regulations adopted by the federal energy regulatory commission, the United
27 States environmental protection agency, the United States nuclear regulatory
28 commission, the Arizona department of environmental quality or a political
29 subdivision of this state to prevent, monitor, control or reduce land, water
30 or air pollution.

31 19. Machinery and equipment that are used in the commercial production
32 of livestock, livestock products or agricultural, horticultural, viticultural
33 or floricultural crops or products in this state and that are used directly
34 and primarily to prevent, monitor, control or reduce air, water or land
35 pollution.

36 20. Machinery or equipment that enables a television station to
37 originate and broadcast or to receive and broadcast digital television
38 signals and that was purchased to facilitate compliance with the
39 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
40 Code section 336) and the federal communications commission order issued
41 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
42 not exempt any of the following:

43 (a) Repair or replacement parts purchased for the machinery or
44 equipment described in this paragraph.

1 (b) Machinery or equipment purchased to replace machinery or equipment
2 for which an exemption was previously claimed and taken under this paragraph.

3 (c) Any machinery or equipment purchased after the television station
4 has ceased analog broadcasting, or purchased after November 1, 2009,
5 whichever occurs first.

6 21. Qualifying equipment that is purchased from and after June 30, 2004
7 through June 30, 2024 by a qualified business under section 41-1516 for
8 harvesting or processing qualifying forest products removed from qualifying
9 projects as defined in section 41-1516. To qualify for this exemption, the
10 qualified business must obtain and present its certification from the Arizona
11 commerce authority at the time of purchase.

12 C. The exemptions provided by subsection B of this section do not
13 include:

14 1. Expendable materials. For the purposes of this paragraph,
15 expendable materials do not include any of the categories of tangible
16 personal property specified in subsection B of this section regardless of the
17 cost or useful life of that property.

18 2. Janitorial equipment and hand tools.

19 3. Office equipment, furniture and supplies.

20 4. Tangible personal property used in selling or distributing
21 activities, other than the telecommunications transmissions described in
22 subsection B, paragraph 15 of this section.

23 5. Motor vehicles required to be licensed by this state, except buses
24 or other urban mass transit vehicles specifically exempted pursuant to
25 subsection B, paragraph 11 of this section, without regard to the use of such
26 motor vehicles.

27 6. Shops, buildings, docks, depots and all other materials of whatever
28 kind or character not specifically included as exempt.

29 7. Motors and pumps used in drip irrigation systems.

30 D. The following shall be deducted in computing the purchase price of
31 electricity by a retail electric customer from a utility business:

32 1. Revenues received from sales of ancillary services, electric
33 distribution services, electric generation services, electric transmission
34 services and other services related to providing electricity to a retail
35 electric customer who is located outside this state for use outside this
36 state if the electricity is delivered to a point of sale outside this state.

37 2. Revenues received from providing electricity, including ancillary
38 services, electric distribution services, electric generation services,
39 electric transmission services and other services related to providing
40 electricity with respect to which the transaction privilege tax imposed under
41 section 42-5063 has been paid.

42 E. The tax levied by this article does not apply to the purchase of
43 solar energy devices from a retailer that is registered with the department
44 as a solar energy retailer or a solar energy contractor.

1 F. The following shall be deducted in computing the purchase price of
2 electricity by a retail electric customer from a utility business:

3 1. Fees charged by a municipally owned utility to persons constructing
4 residential, commercial or industrial developments or connecting residential,
5 commercial or industrial developments to a municipal utility system or
6 systems if the fees are segregated and used only for capital expansion,
7 system enlargement or debt service of the utility system or systems.

8 2. Reimbursement or contribution compensation to any person or persons
9 owning a utility system for property and equipment installed to provide
10 utility access to, on or across the land of an actual utility consumer if the
11 property and equipment become the property of the utility. This deduction
12 shall not exceed the value of such property and equipment.

13 G. For the purposes of subsection B of this section:

14 1. "Aircraft" includes:

15 (a) An airplane flight simulator that is approved by the federal
16 aviation administration for use as a phase II or higher flight simulator
17 under appendix H, 14 Code of Federal Regulations part 121.

18 (b) Tangible personal property that is permanently affixed or attached
19 as a component part of an aircraft that is owned or operated by a
20 certificated or licensed carrier of persons or property.

21 2. "Other accessories and related equipment" includes aircraft
22 accessories and equipment such as ground service equipment that physically
23 contact aircraft at some point during the overall carrier operation.

24 H. For the purposes of subsection D of this section, "ancillary
25 services", "electric distribution service", "electric generation service",
26 "electric transmission service" and "other services" have the same meanings
27 prescribed in section 42-5063.

28 Sec. 203. Section 42-5159, Arizona Revised Statutes, as amended by
29 Laws 2013, chapter 255, section 17, is amended to read:

30 42-5159. Exemptions

31 A. The tax levied by this article does not apply to the storage, use
32 or consumption in this state of the following described tangible personal
33 property:

34 1. Tangible personal property sold in this state, the gross receipts
35 from the sale of which are included in the measure of the tax imposed by
36 articles 1 and 2 of this chapter.

37 2. Tangible personal property the sale or use of which has already
38 been subjected to an excise tax at a rate equal to or exceeding the tax
39 imposed by this article under the laws of another state of the United States.
40 If the excise tax imposed by the other state is at a rate less than the tax
41 imposed by this article, the tax imposed by this article is reduced by the
42 amount of the tax already imposed by the other state.

43 3. Tangible personal property, the storage, use or consumption of
44 which the constitution or laws of the United States prohibit this state from

1 taxing or to the extent that the rate or imposition of tax is
2 unconstitutional under the laws of the United States.

3 4. Tangible personal property that directly enters into and becomes an
4 ingredient or component part of any manufactured, fabricated or processed
5 article, substance or commodity for sale in the regular course of business.

6 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
7 which in this state is subject to the tax imposed under title 28, chapter 16,
8 article 1, use fuel that is sold to or used by a person holding a valid
9 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
10 the sales, distribution or use of which in this state is subject to the tax
11 imposed under section 28-8344, and jet fuel, the sales, distribution or use
12 of which in this state is subject to the tax imposed under article 8 of this
13 chapter.

14 6. Tangible personal property brought into this state by an individual
15 who was a nonresident at the time the property was purchased for storage, use
16 or consumption by the individual if the first actual use or consumption of
17 the property was outside this state, unless the property is used in
18 conducting a business in this state.

19 7. Purchases of implants used as growth promotants and injectable
20 medicines, not already exempt under paragraph 16 of this subsection, for
21 livestock and poultry owned by, or in possession of, persons who are engaged
22 in producing livestock, poultry, or livestock or poultry products, or who are
23 engaged in feeding livestock or poultry commercially. For the purposes of
24 this paragraph, "poultry" includes ratites.

25 8. Livestock, poultry, supplies, feed, salts, vitamins and other
26 additives for use or consumption in the businesses of farming, ranching and
27 feeding livestock or poultry, not including fertilizers, herbicides and
28 insecticides. For the purposes of this paragraph, "poultry" includes
29 ratites.

30 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
31 material for use in commercially producing agricultural, horticultural,
32 viticultural or floricultural crops in this state.

33 10. Tangible personal property not exceeding two hundred dollars in any
34 one month purchased by an individual at retail outside the continental limits
35 of the United States for the individual's own personal use and enjoyment.

36 11. Advertising supplements that are intended for sale with newspapers
37 published in this state and that have already been subjected to an excise tax
38 under the laws of another state in the United States that equals or exceeds
39 the tax imposed by this article.

40 12. Materials that are purchased by or for publicly funded libraries
41 including school district libraries, charter school libraries, community
42 college libraries, state university libraries or federal, state, county or
43 municipal libraries for use by the public as follows:

44 (a) Printed or photographic materials, beginning August 7, 1985.

45 (b) Electronic or digital media materials, beginning July 17, 1994.

- 1 13. Tangible personal property purchased by:
- 2 (a) A hospital organized and operated exclusively for charitable
- 3 purposes, no part of the net earnings of which inures to the benefit of any
- 4 private shareholder or individual.
- 5 (b) A hospital operated by this state or a political subdivision of
- 6 this state.
- 7 (c) A licensed nursing care institution or a licensed residential care
- 8 institution or a residential care facility operated in conjunction with a
- 9 licensed nursing care institution or a licensed kidney dialysis center, which
- 10 provides medical services, nursing services or health related services and is
- 11 not used or held for profit.
- 12 (d) A qualifying health care organization, as defined in section
- 13 42-5001, if the tangible personal property is used by the organization solely
- 14 to provide health and medical related educational and charitable services.
- 15 (e) A qualifying health care organization as defined in section
- 16 42-5001 if the organization is dedicated to providing educational,
- 17 therapeutic, rehabilitative and family medical education training for blind,
- 18 ~~AND~~ visually impaired ~~and multihandicapped~~ children **AND CHILDREN WITH**
- 19 **MULTIDISABILITIES** from the time of birth to age twenty-one.
- 20 (f) A nonprofit charitable organization that has qualified under
- 21 section 501(c)(3) of the United States internal revenue code and that engages
- 22 in and uses such property exclusively in programs for ~~mentally or physically~~
- 23 ~~handicapped~~ persons **WITH MENTAL OR PHYSICAL DISABILITIES** if the programs are
- 24 exclusively for training, job placement, rehabilitation or testing.
- 25 (g) A person that is subject to tax under article 1 of this chapter by
- 26 reason of being engaged in business classified under the prime contracting
- 27 classification under section 42-5075, or a subcontractor working under the
- 28 control of a prime contractor, if the tangible personal property is any of
- 29 the following:
- 30 (i) Incorporated or fabricated by the contractor into a structure,
- 31 project, development or improvement in fulfillment of a contract.
- 32 (ii) Used in environmental response or remediation activities under
- 33 section 42-5075, subsection B, paragraph 6.
- 34 (h) A nonprofit charitable organization that has qualified under
- 35 section 501(c)(3) of the internal revenue code if the property is purchased
- 36 from the parent or an affiliate organization that is located outside this
- 37 state.
- 38 (i) A qualifying community health center as defined in section
- 39 42-5001.
- 40 (j) A nonprofit charitable organization that has qualified under
- 41 section 501(c)(3) of the internal revenue code and that regularly serves
- 42 meals to the needy and indigent on a continuing basis at no cost.
- 43 (k) A person engaged in business under the transient lodging
- 44 classification if the property is a personal hygiene item or articles used by
- 45 human beings for food, drink or condiment, except alcoholic beverages, which

1 are furnished without additional charge to and intended to be consumed by the
2 transient during the transient's occupancy.

3 (1) For taxable periods beginning from and after June 30, 2001, a
4 nonprofit charitable organization that has qualified under section 501(c)(3)
5 of the internal revenue code and that provides residential apartment housing
6 for low income persons over sixty-two years of age in a facility that
7 qualifies for a federal housing subsidy, if the tangible personal property is
8 used by the organization solely to provide residential apartment housing for
9 low income persons over sixty-two years of age in a facility that qualifies
10 for a federal housing subsidy.

11 14. Commodities, as defined by title 7 United States Code section 2,
12 that are consigned for resale in a warehouse in this state in or from which
13 the commodity is deliverable on a contract for future delivery subject to the
14 rules of a commodity market regulated by the United States commodity futures
15 trading commission.

16 15. Tangible personal property sold by:

17 (a) Any nonprofit organization organized and operated exclusively for
18 charitable purposes and recognized by the United States internal revenue
19 service under section 501(c)(3) of the internal revenue code.

20 (b) A nonprofit organization that is exempt from taxation under
21 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
22 organization is associated with a major league baseball team or a national
23 touring professional golfing association and no part of the organization's
24 net earnings inures to the benefit of any private shareholder or individual.

25 (c) A nonprofit organization that is exempt from taxation under
26 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
27 internal revenue code if the organization sponsors or operates a rodeo
28 featuring primarily farm and ranch animals and no part of the organization's
29 net earnings inures to the benefit of any private shareholder or individual.

30 16. Drugs and medical oxygen, including delivery hose, mask or tent,
31 regulator and tank, on the prescription of a member of the medical, dental or
32 veterinarian profession who is licensed by law to administer such substances.

33 17. Prosthetic appliances, as defined in section 23-501, prescribed or
34 recommended by a person who is licensed, registered or otherwise
35 professionally credentialed as a physician, dentist, podiatrist,
36 chiropractor, naturopath, homeopath, nurse or optometrist.

37 18. Prescription eyeglasses and contact lenses.

38 19. Insulin, insulin syringes and glucose test strips.

39 20. Hearing aids as defined in section 36-1901.

40 21. Durable medical equipment that has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
44 used to serve a medical purpose, is generally not useful to a person in the
45 absence of illness or injury and is appropriate for use in the home.

1 22. Food, as provided in and subject to the conditions of article 3 of
2 this chapter and section 42-5074.

3 23. Items purchased with United States department of agriculture food
4 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
5 958) or food instruments issued under section 17 of the child nutrition act
6 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
7 section 1786).

8 24. Food and drink provided without monetary charge by a taxpayer that
9 is subject to section 42-5074 to its employees for their own consumption on
10 the premises during the employees' hours of employment.

11 25. Tangible personal property that is used or consumed in a business
12 subject to section 42-5074 for human food, drink or condiment, whether
13 simple, mixed or compounded.

14 26. Food, drink or condiment and accessory tangible personal property
15 that are acquired for use by or provided to a school district or charter
16 school if they are to be either served or prepared and served to persons for
17 consumption on the premises of a public school in the school district or on
18 the premises of the charter school during school hours.

19 27. Lottery tickets or shares purchased pursuant to title 5, chapter
20 5.1, article 1.

21 28. Textbooks, sold by a bookstore, that are required by any state
22 university or community college.

23 29. Magazines, other periodicals or other publications produced by this
24 state to encourage tourist travel.

25 30. Paper machine clothing, such as forming fabrics and dryer felts,
26 purchased by a paper manufacturer and directly used or consumed in paper
27 manufacturing.

28 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
29 purchased by a qualified environmental technology manufacturer, producer or
30 processor as defined in section 41-1514.02 and directly used or consumed in
31 the generation or provision of on-site power or energy solely for
32 environmental technology manufacturing, producing or processing or
33 environmental protection. This paragraph shall apply for twenty full
34 consecutive calendar or fiscal years from the date the first paper
35 manufacturing machine is placed in service. In the case of an environmental
36 technology manufacturer, producer or processor who does not manufacture
37 paper, the time period shall begin with the date the first manufacturing,
38 processing or production equipment is placed in service.

39 32. Motor vehicles that are removed from inventory by a motor vehicle
40 dealer as defined in section 28-4301 and that are provided to:

41 (a) Charitable or educational institutions that are exempt from
42 taxation under section 501(c)(3) of the internal revenue code.

43 (b) Public educational institutions.

1 (c) State universities or affiliated organizations of a state
2 university if no part of the organization's net earnings inures to the
3 benefit of any private shareholder or individual.

4 33. Natural gas or liquefied petroleum gas used to propel a motor
5 vehicle.

6 34. Machinery, equipment, technology or related supplies that are only
7 useful to assist a person who ~~is physically disabled~~ HAS A PHYSICAL
8 DISABILITY as defined in section 46-191, has a developmental disability as
9 defined in section 36-551 or has a head injury as defined in section 41-3201
10 to be more independent and functional.

11 35. Liquid, solid or gaseous chemicals used in manufacturing,
12 processing, fabricating, mining, refining, metallurgical operations, research
13 and development and, beginning on January 1, 1999, printing, if using or
14 consuming the chemicals, alone or as part of an integrated system of
15 chemicals, involves direct contact with the materials from which the product
16 is produced for the purpose of causing or permitting a chemical or physical
17 change to occur in the materials as part of the production process. This
18 paragraph does not include chemicals that are used or consumed in activities
19 such as packaging, storage or transportation but does not affect any
20 exemption for such chemicals that is otherwise provided by this section. For
21 the purposes of this paragraph, "printing" means a commercial printing
22 operation and includes job printing, engraving, embossing, copying and
23 bookbinding.

24 36. Food, drink and condiment purchased for consumption within the
25 premises of any prison, jail or other institution under the jurisdiction of
26 the state department of corrections, the department of public safety, the
27 department of juvenile corrections or a county sheriff.

28 37. A motor vehicle and any repair and replacement parts and tangible
29 personal property becoming a part of such motor vehicle sold to a motor
30 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
31 and who is engaged in the business of leasing or renting such property.

32 38. Tangible personal property that is or directly enters into and
33 becomes an ingredient or component part of cards used as prescription plan
34 identification cards.

35 39. Overhead materials or other tangible personal property that is used
36 in performing a contract between the United States government and a
37 manufacturer, modifier, assembler or repairer, including property used in
38 performing a subcontract with a government contractor who is a manufacturer,
39 modifier, assembler or repairer, to which title passes to the government
40 under the terms of the contract or subcontract. For the purposes of this
41 paragraph:

42 (a) "Overhead materials" means tangible personal property, the gross
43 proceeds of sales or gross income derived from which would otherwise be
44 included in the retail classification, that is used or consumed in the
45 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based on generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.

4 (b) "Subcontract" means an agreement between a contractor and any
5 person who is not an employee of the contractor for furnishing of supplies or
6 services that, in whole or in part, are necessary to the performance of one
7 or more government contracts, or under which any portion of the contractor's
8 obligation under one or more government contracts is performed, undertaken or
9 assumed, and that includes provisions causing title to overhead materials or
10 other tangible personal property used in the performance of the subcontract
11 to pass to the government or that includes provisions incorporating such
12 title passing clauses in a government contract into the subcontract.

13 40. Through December 31, 1994, tangible personal property sold pursuant
14 to a personal property liquidation transaction, as defined in section
15 42-5061. From and after December 31, 1994, tangible personal property sold
16 pursuant to a personal property liquidation transaction, as defined in
17 section 42-5061, if the gross proceeds of the sales were included in the
18 measure of the tax imposed by article 1 of this chapter or if the personal
19 property liquidation was a casual activity or transaction.

20 41. Wireless telecommunications equipment that is held for sale or
21 transfer to a customer as an inducement to enter into or continue a contract
22 for telecommunications services that are taxable under section 42-5064.

23 42. Alternative fuel, as defined in section 1-215, purchased by a used
24 oil fuel burner who has received a permit to burn used oil or used oil fuel
25 under section 49-426 or 49-480.

26 43. Tangible personal property purchased by a commercial airline and
27 consisting of food, beverages and condiments and accessories used for serving
28 the food and beverages, if those items are to be provided without additional
29 charge to passengers for consumption in flight. For the purposes of this
30 paragraph, "commercial airline" means a person holding a federal certificate
31 of public convenience and necessity or foreign air carrier permit for air
32 transportation to transport persons, property or United States mail in
33 intrastate, interstate or foreign commerce.

34 44. Alternative fuel vehicles if the vehicle was manufactured as a
35 diesel fuel vehicle and converted to operate on alternative fuel and
36 equipment that is installed in a conventional diesel fuel motor vehicle to
37 convert the vehicle to operate on an alternative fuel, as defined in section
38 1-215.

39 45. Gas diverted from a pipeline, by a person engaged in the business
40 of:

41 (a) Operating a natural or artificial gas pipeline, and used or
42 consumed for the sole purpose of fueling compressor equipment that
43 pressurizes the pipeline.

1 (b) Converting natural gas into liquefied natural gas, and used or
2 consumed for the sole purpose of fueling compressor equipment used in the
3 conversion process.

4 46. Tangible personal property that is excluded, exempt or deductible
5 from transaction privilege tax pursuant to section 42-5063.

6 47. Tangible personal property purchased to be incorporated or
7 installed as part of environmental response or remediation activities under
8 section 42-5075, subsection B, paragraph 6.

9 48. Tangible personal property sold by a nonprofit organization that is
10 exempt from taxation under section 501(c)(6) of the internal revenue code if
11 the organization produces, organizes or promotes cultural or civic related
12 festivals or events and no part of the organization's net earnings inures to
13 the benefit of any private shareholder or individual.

14 49. Prepared food, drink or condiment donated by a restaurant as
15 classified in section 42-5074, subsection A to a nonprofit charitable
16 organization that has qualified under section 501(c)(3) of the internal
17 revenue code and that regularly serves meals to the needy and indigent on a
18 continuing basis at no cost.

19 50. Application services that are designed to assess or test student
20 learning or to promote curriculum design or enhancement purchased by or for
21 any school district, charter school, community college or state university.
22 For the purposes of this paragraph:

23 (a) "Application services" means software applications provided
24 remotely using hypertext transfer protocol or another network protocol.

25 (b) "Curriculum design or enhancement" means planning, implementing or
26 reporting on courses of study, lessons, assignments or other learning
27 activities.

28 51. Motor vehicle fuel and use fuel to a qualified business under
29 section 41-1516 for off-road use in harvesting, processing or transporting
30 qualifying forest products removed from qualifying projects as defined in
31 section 41-1516.

32 52. Repair parts installed in equipment used directly by a qualified
33 business under section 41-1516 in harvesting, processing or transporting
34 qualifying forest products removed from qualifying projects as defined in
35 section 41-1516.

36 53. Renewable energy credits or any other unit created to track energy
37 derived from renewable energy resources. For the purposes of this paragraph,
38 "renewable energy credit" means a unit created administratively by the
39 corporation commission or governing body of a public power entity to track
40 kilowatt hours of electricity derived from a renewable energy resource or the
41 kilowatt hour equivalent of conventional energy resources displaced by
42 distributed renewable energy resources.

43 B. In addition to the exemptions allowed by subsection A of this
44 section, the following categories of tangible personal property are also
45 exempt:

1 1. Machinery, or equipment, used directly in manufacturing,
2 processing, fabricating, job printing, refining or metallurgical operations.
3 The terms "manufacturing", "processing", "fabricating", "job printing",
4 "refining" and "metallurgical" as used in this paragraph refer to and include
5 those operations commonly understood within their ordinary meaning.
6 "Metallurgical operations" includes leaching, milling, precipitating,
7 smelting and refining.

8 2. Machinery, or equipment, used directly in the process of extracting
9 ores or minerals from the earth for commercial purposes, including equipment
10 required to prepare the materials for extraction and handling, loading or
11 transporting such extracted material to the surface. "Mining" includes
12 underground, surface and open pit operations for extracting ores and
13 minerals.

14 3. Tangible personal property sold to persons engaged in business
15 classified under the telecommunications classification under section 42-5064
16 and consisting of central office switching equipment, switchboards, private
17 branch exchange equipment, microwave radio equipment and carrier equipment
18 including optical fiber, coaxial cable and other transmission media that are
19 components of carrier systems.

20 4. Machinery, equipment or transmission lines used directly in
21 producing or transmitting electrical power, but not including distribution.
22 Transformers and control equipment used at transmission substation sites
23 constitute equipment used in producing or transmitting electrical power.

24 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
25 to be used as breeding or production stock, including sales of breedings or
26 ownership shares in such animals used for breeding or production.

27 6. Pipes or valves four inches in diameter or larger used to transport
28 oil, natural gas, artificial gas, water or coal slurry, including compressor
29 units, regulators, machinery and equipment, fittings, seals and any other
30 part that is used in operating the pipes or valves.

31 7. Aircraft, navigational and communication instruments and other
32 accessories and related equipment sold to:

33 (a) A person holding a federal certificate of public convenience and
34 necessity, a supplemental air carrier certificate under federal aviation
35 regulations (14 Code of Federal Regulations part 121) or a foreign air
36 carrier permit for air transportation for use as or in conjunction with or
37 becoming a part of aircraft to be used to transport persons, property or
38 United States mail in intrastate, interstate or foreign commerce.

39 (b) Any foreign government, or sold to persons who are not residents
40 of this state and who will not use such property in this state other than in
41 removing such property from this state.

42 8. Machinery, tools, equipment and related supplies used or consumed
43 directly in repairing, remodeling or maintaining aircraft, aircraft engines
44 or aircraft component parts by or on behalf of a certificated or licensed
45 carrier of persons or property.

1 9. Rolling stock, rails, ties and signal control equipment used
2 directly to transport persons or property.

3 10. Machinery or equipment used directly to drill for oil or gas or
4 used directly in the process of extracting oil or gas from the earth for
5 commercial purposes.

6 11. Buses or other urban mass transit vehicles that are used directly
7 to transport persons or property for hire or pursuant to a governmentally
8 adopted and controlled urban mass transportation program and that are sold to
9 bus companies holding a federal certificate of convenience and necessity or
10 operated by any city, town or other governmental entity or by any person
11 contracting with such governmental entity as part of a governmentally adopted
12 and controlled program to provide urban mass transportation.

13 12. Groundwater measuring devices required under section 45-604.

14 13. New machinery and equipment consisting of tractors, tractor-drawn
15 implements, self-powered implements, machinery and equipment necessary for
16 extracting milk, and machinery and equipment necessary for cooling milk and
17 livestock, and drip irrigation lines not already exempt under paragraph 6 of
18 this subsection and that are used for commercial production of agricultural,
19 horticultural, viticultural and floricultural crops and products in this
20 state. For the purposes of this paragraph:

21 (a) "New machinery and equipment" means machinery or equipment that
22 has never been sold at retail except pursuant to leases or rentals that do
23 not total two years or more.

24 (b) "Self-powered implements" includes machinery and equipment that
25 are electric-powered.

26 14. Machinery or equipment used in research and development. For the
27 purposes of this paragraph, "research and development" means basic and
28 applied research in the sciences and engineering, and designing, developing
29 or testing prototypes, processes or new products, including research and
30 development of computer software that is embedded in or an integral part of
31 the prototype or new product or that is required for machinery or equipment
32 otherwise exempt under this section to function effectively. Research and
33 development do not include manufacturing quality control, routine consumer
34 product testing, market research, sales promotion, sales service, research in
35 social sciences or psychology, computer software research that is not
36 included in the definition of research and development, or other
37 nontechnological activities or technical services.

38 15. Tangible personal property that is used by either of the following
39 to receive, store, convert, produce, generate, decode, encode, control or
40 transmit telecommunications information:

41 (a) Any direct broadcast satellite television or data transmission
42 service that operates pursuant to 47 Code of Federal Regulations part 25.

43 (b) Any satellite television or data transmission facility, if both of
44 the following conditions are met:

1 (i) Over two-thirds of the transmissions, measured in megabytes,
2 transmitted by the facility during the test period were transmitted to or on
3 behalf of one or more direct broadcast satellite television or data
4 transmission services that operate pursuant to 47 Code of Federal Regulations
5 part 25.

6 (ii) Over two-thirds of the transmissions, measured in megabytes,
7 transmitted by or on behalf of those direct broadcast television or data
8 transmission services during the test period were transmitted by the facility
9 to or on behalf of those services.

10 For the purposes of subdivision (b) of this paragraph, "test period" means
11 the three hundred sixty-five day period beginning on the later of the date on
12 which the tangible personal property is purchased or the date on which the
13 direct broadcast satellite television or data transmission service first
14 transmits information to its customers.

15 16. Clean rooms that are used for manufacturing, processing,
16 fabrication or research and development, as defined in paragraph 14 of this
17 subsection, of semiconductor products. For the purposes of this paragraph,
18 "clean room" means all property that comprises or creates an environment
19 where humidity, temperature, particulate matter and contamination are
20 precisely controlled within specified parameters, without regard to whether
21 the property is actually contained within that environment or whether any of
22 the property is affixed to or incorporated into real property. Clean room:

23 (a) Includes the integrated systems, fixtures, piping, movable
24 partitions, lighting and all property that is necessary or adapted to reduce
25 contamination or to control airflow, temperature, humidity, chemical purity
26 or other environmental conditions or manufacturing tolerances, as well as the
27 production machinery and equipment operating in conjunction with the clean
28 room environment.

29 (b) Does not include the building or other permanent, nonremovable
30 component of the building that houses the clean room environment.

31 17. Machinery and equipment that are used directly in the feeding of
32 poultry, the environmental control of housing for poultry, the movement of
33 eggs within a production and packaging facility or the sorting or cooling of
34 eggs. This exemption does not apply to vehicles used for transporting eggs.

35 18. Machinery or equipment, including related structural components,
36 that is employed in connection with manufacturing, processing, fabricating,
37 job printing, refining, mining, natural gas pipelines, metallurgical
38 operations, telecommunications, producing or transmitting electricity or
39 research and development and that is used directly to meet or exceed rules or
40 regulations adopted by the federal energy regulatory commission, the United
41 States environmental protection agency, the United States nuclear regulatory
42 commission, the Arizona department of environmental quality or a political
43 subdivision of this state to prevent, monitor, control or reduce land, water
44 or air pollution.

1 19. Machinery and equipment that are used in the commercial production
2 of livestock, livestock products or agricultural, horticultural, viticultural
3 or floricultural crops or products in this state and that are used directly
4 and primarily to prevent, monitor, control or reduce air, water or land
5 pollution.

6 20. Machinery or equipment that enables a television station to
7 originate and broadcast or to receive and broadcast digital television
8 signals and that was purchased to facilitate compliance with the
9 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
10 Code section 336) and the federal communications commission order issued
11 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
12 not exempt any of the following:

13 (a) Repair or replacement parts purchased for the machinery or
14 equipment described in this paragraph.

15 (b) Machinery or equipment purchased to replace machinery or equipment
16 for which an exemption was previously claimed and taken under this paragraph.

17 (c) Any machinery or equipment purchased after the television station
18 has ceased analog broadcasting, or purchased after November 1, 2009,
19 whichever occurs first.

20 21. Qualifying equipment that is purchased from and after June 30, 2004
21 through June 30, 2024 by a qualified business under section 41-1516 for
22 harvesting or processing qualifying forest products removed from qualifying
23 projects as defined in section 41-1516. To qualify for this exemption, the
24 qualified business must obtain and present its certification from the Arizona
25 commerce authority at the time of purchase.

26 C. The exemptions provided by subsection B of this section do not
27 include:

28 1. Expendable materials. For the purposes of this paragraph,
29 expendable materials do not include any of the categories of tangible
30 personal property specified in subsection B of this section regardless of the
31 cost or useful life of that property.

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

34 4. Tangible personal property used in selling or distributing
35 activities, other than the telecommunications transmissions described in
36 subsection B, paragraph 15 of this section.

37 5. Motor vehicles required to be licensed by this state, except buses
38 or other urban mass transit vehicles specifically exempted pursuant to
39 subsection B, paragraph 11 of this section, without regard to the use of such
40 motor vehicles.

41 6. Shops, buildings, docks, depots and all other materials of whatever
42 kind or character not specifically included as exempt.

43 7. Motors and pumps used in drip irrigation systems.

44 8. Machinery and equipment or tangible personal property used by a
45 contractor in the performance of a contract.

1 D. The following shall be deducted in computing the purchase price of
2 electricity by a retail electric customer from a utility business:

3 1. Revenues received from sales of ancillary services, electric
4 distribution services, electric generation services, electric transmission
5 services and other services related to providing electricity to a retail
6 electric customer who is located outside this state for use outside this
7 state if the electricity is delivered to a point of sale outside this state.

8 2. Revenues received from providing electricity, including ancillary
9 services, electric distribution services, electric generation services,
10 electric transmission services and other services related to providing
11 electricity with respect to which the transaction privilege tax imposed under
12 section 42-5063 has been paid.

13 E. The tax levied by this article does not apply to the purchase of
14 solar energy devices from a retailer that is registered with the department
15 as a solar energy retailer or a solar energy contractor.

16 F. The following shall be deducted in computing the purchase price of
17 electricity by a retail electric customer from a utility business:

18 1. Fees charged by a municipally owned utility to persons constructing
19 residential, commercial or industrial developments or connecting residential,
20 commercial or industrial developments to a municipal utility system or
21 systems if the fees are segregated and used only for capital expansion,
22 system enlargement or debt service of the utility system or systems.

23 2. Reimbursement or contribution compensation to any person or persons
24 owning a utility system for property and equipment installed to provide
25 utility access to, on or across the land of an actual utility consumer if the
26 property and equipment become the property of the utility. This deduction
27 shall not exceed the value of such property and equipment.

28 G. For the purposes of subsection B of this section:

29 1. "Aircraft" includes:

30 (a) An airplane flight simulator that is approved by the federal
31 aviation administration for use as a phase II or higher flight simulator
32 under appendix H, 14 Code of Federal Regulations part 121.

33 (b) Tangible personal property that is permanently affixed or attached
34 as a component part of an aircraft that is owned or operated by a
35 certificated or licensed carrier of persons or property.

36 2. "Other accessories and related equipment" includes aircraft
37 accessories and equipment such as ground service equipment that physically
38 contact aircraft at some point during the overall carrier operation.

39 H. For the purposes of subsection D of this section, "ancillary
40 services", "electric distribution service", "electric generation service",
41 "electric transmission service" and "other services" have the same meanings
42 prescribed in section 42-5063.

1 Sec. 204. Section 42-11105, Arizona Revised Statutes, is amended to
2 read:

3 42-11105. Exemption for health care property

4 A. Hospitals for the relief of the indigent or afflicted, appurtenant
5 land and their fixtures and equipment are exempt from taxation if they are
6 not used or held for profit.

7 B. Property that is used to operate a health care institution that
8 provides medical, nursing or health related services ~~to~~ FOR persons ~~who are~~
9 ~~handicapped~~ WITH DISABILITIES or WHO ARE sixty-two years of age or older is
10 exempt from taxation if the property is not used or held for profit.

11 C. Qualifying community health centers as defined in section
12 36-2907.06, ~~AND~~ appurtenant land and their fixtures and equipment are exempt
13 from taxation if they are not used or held for profit.

14 D. Property that is owned by a health care provider, ~~recognized~~ under
15 section 501(c)(3) of the internal revenue code and organized as a nonprofit
16 corporation is exempt from taxation if the property is used to provide health
17 care services and the property is not used or held for profit. An exemption
18 under this subsection includes all buildings, appurtenant land, fixtures,
19 equipment and other reasonably required property, including property used for
20 the administration of services. For the purposes of this subsection, "health
21 care provider" means a health care institution as defined in title 36 or an
22 entity that provides health care services directly to patients through health
23 care providers who are licensed pursuant to title 32.

24 Sec. 205. Section 42-11106, Arizona Revised Statutes, is amended to
25 read:

26 42-11106. Exemption for apartments for elderly residents or
27 residents with disabilities

28 Property that is used to operate a nonprofit residential apartment
29 housing facility that is structured for ~~handicapped~~ persons WITH DISABILITIES
30 or persons who are sixty-two years of age or older is exempt from taxation if
31 either of the following circumstances applies:

32 1. The property is located adjacent to property that is exempt from
33 taxation under section 42-11105, subsection B and is owned and operated by
34 the same person or association that owns that adjacent property.

35 2. The federal, state or local government or a nonprofit organization
36 pays a subsidy and:

37 (a) The payment or subsidy is a substantial amount in relation either
38 to the amount given or to the total annual operating expenses to pay for
39 principal, interest and operating expenses.

40 (b) The nonprofit organization is not created or operated for the
41 primary purpose of providing the subsidy or payment.

1 (b) Totally and permanently, ~~physically or mentally disabled~~ PHYSICAL
2 OR MENTAL DISABILITIES, as certified by competent medical authority as
3 provided by law.

4 F. For the purposes of subsection E of this section, "income from all
5 sources" means the sum of the following, but excluding the items listed in
6 subsection G of this section:

- 7 1. Adjusted gross income as defined by the department.
- 8 2. The amount of capital gains excluded from adjusted gross income.
- 9 3. Nontaxable strike benefits.
- 10 4. Nontaxable interest that is received from the federal government or
11 any of its instrumentalities.
- 12 5. Payments that are received from a retirement program and paid by:
13 (a) This state or any of its political subdivisions.
14 (b) The United States through any of its agencies, instrumentalities
15 or programs, except as provided in subsection G of this section.
- 16 6. The gross amount of any pension or annuity that is not otherwise
17 exempted.

18 G. Notwithstanding subsection F of this section, "income from all
19 sources" does not include monies received from:

- 20 1. Cash public assistance and relief.
- 21 2. Railroad retirement benefits.
- 22 3. Payments under the federal social security act (49 Stat. 620).
- 23 4. Payments under the unemployment insurance laws of this state.
- 24 5. Payments from veterans disability pensions.
- 25 6. Workers' compensation payments.
- 26 7. "Loss of time" insurance.
- 27 8. Gifts from nongovernmental sources, surplus foods or other relief
28 in kind supplied by a governmental agency.

29 H. A widow, widower or ~~disabled~~ A person WITH A DISABILITY shall
30 initially establish eligibility for exemption under this section by filing an
31 affidavit with the county assessor under section 42-11152. Thereafter, the
32 person is not required to file an affidavit under section 42-11152, but the
33 person or the person's representative shall annually calculate income from
34 the preceding year to ensure that the person still qualifies for the
35 exemption and shall notify the county assessor in writing of any event that
36 disqualifies the widow, widower or ~~disabled~~ person WITH A DISABILITY from
37 further exemption. Regardless of whether the person or representative
38 notifies the assessor as required by this subsection, the property is subject
39 to tax as provided by law from the date of disqualification, including
40 interest, penalties and proceedings for tax delinquencies. Disqualifying
41 events include:

- 42 1. The person's death.
- 43 2. The remarriage of a widow or widower.
- 44 3. The person's income from all sources exceeding the limits
45 prescribed by subsection E of this section.

1 4. The conveyance of title to the property to another owner.

2 I. Any dollar amount of exemption that is unused in a tax year against
3 the limited property value of property and improvements owned by the
4 individual may be applied for the tax year against the value of personal
5 property subject to special property taxes including the taxes collected
6 pursuant to title 5, chapter 3, article 3 and title 28, chapter 16,
7 article 3.

8 J. An individual is not entitled to property tax exemptions in the
9 aggregate that exceed the maximum allowed to a widow, widower or ~~disabled~~
10 person WITH A DISABILITY even if the person is eligible for an exemption in
11 more than one category.

12 Sec. 207. Section 42-11153, Arizona Revised Statutes, is amended to
13 read:

14 42-11153. Deadline for filing affidavit

15 A. Except as provided in section 42-11104, subsection E, section
16 42-11109, subsection B, section 42-11110, subsection B, section 42-11111,
17 subsection H, section 42-11131, subsection C and section 42-11132, subsection
18 C, a failure by a taxpayer who is entitled to an exemption to make an
19 affidavit or furnish evidence required by this article between the first
20 Monday in January and March 1 of each year constitutes a waiver of the
21 exemption.

22 B. If a widow, widower or ~~disabled~~ person WITH A DISABILITY whose
23 property is exempt from tax under section 42-11111, or an organization that
24 is exempt from federal income tax under section 501(c) of the internal
25 revenue code and is exempt from property tax under article 3 of this chapter,
26 submits a petition after the deadlines prescribed by subsection A of this
27 section, the person or organization may have the waiver redeemed by the
28 county board of supervisors at any regular meeting, except that no taxes that
29 were due and payable before the petition was submitted may be refunded or
30 abated.

31 Sec. 208. Section 42-12004, Arizona Revised Statutes, is amended to
32 read:

33 42-12004. Class four property

34 A. For purposes of taxation, class four is established consisting of:

35 1. Real and personal property and improvements to the property that
36 are used for residential purposes, including residential property that is
37 owned in foreclosure by a financial institution, that is not otherwise
38 included in another classification and that is valued at full cash value.
39 The homesite that is included in class four may include:

40 (a) Up to ten acres on a single parcel of real property on which the
41 residential improvement is located.

42 (b) More than ten, but not more than forty, acres on a single parcel
43 of real property on which the residential improvement is located if it is
44 zoned exclusively for residential purposes or contains legal restrictions or
45 physical conditions that prevent the division of the parcel. For the

1 purposes of this ~~paragraph~~ SUBDIVISION, "physical conditions" means
2 topography, mountains, washes, rivers, roads or any other configuration that
3 limits the residential usable land area.

4 2. Real and personal property and improvements to the property that
5 are used solely as leased or rented property for residential purposes, that
6 are not included in class one, two, three, six, seven or eight and that are
7 valued at full cash value.

8 3. Child care facilities that are licensed under title 36, chapter 7.1
9 and that are valued at full cash value.

10 4. Real and personal property and improvements to property that are
11 used to operate nonprofit residential housing facilities that are structured
12 to house or care for persons ~~who are handicapped~~ WITH DISABILITIES or WHO ARE
13 sixty-two years of age or older and that are valued at full cash value.

14 5. Real and personal property and improvements that are used to
15 operate licensed residential care institutions or licensed nursing care
16 institutions that provide medical services, nursing services or health
17 related services and that are structured to house or care for persons ~~who are~~
18 ~~handicapped~~ WITH DISABILITIES or WHO ARE sixty-two years of age or older and
19 that are valued at full cash value.

20 6. Real and personal property consisting of no more than eight rooms
21 of residential property that are leased or rented to transient lodgers,
22 together with furnishing no more than a breakfast meal, by the owner who
23 resides on the property and that is valued at full cash value.

24 7. Real and personal property consisting of residential dwellings that
25 are maintained for occupancy by agricultural employees as a condition of
26 employment or as a convenience to the employer, that is not included in class
27 three and that is valued at full cash value. The land associated with these
28 dwellings shall be valued as agricultural land pursuant to chapter 13,
29 article 3 of this title.

30 8. Real property and improvements to property constituting common
31 areas that are valued pursuant to chapter 13, article 9 of this title.

32 9. Real and personal property that is defined as timeshare property by
33 section 32-2197 and valued pursuant to chapter 13, article 10 of this title,
34 except for any property used for commercial, industrial or transient
35 occupancy purposes and included in class one to the extent of that use.

36 B. Subsection A, paragraphs 4 and 5 of this section shall not be
37 construed to limit eligibility for exemption from taxation under chapter 11,
38 article 3 of this title.

39 Sec. 209. Section 43-1088, Arizona Revised Statutes, is amended to
40 read:

41 43-1088. Credit for contribution to qualifying charitable
42 organizations; definitions

43 A. Except as provided in subsection B of this section, a credit is
44 allowed against the taxes imposed by this title for voluntary cash
45 contributions by the taxpayer or on the taxpayer's behalf pursuant to section

1 43-401, subsection G during the taxable year to a qualifying charitable
2 organization not to exceed:

3 1. Two hundred dollars in any taxable year for a single individual or
4 a head of household.

5 2. Four hundred dollars in any taxable year for a married couple
6 filing a joint return.

7 B. If the voluntary cash contribution by the taxpayer or on the
8 taxpayer's behalf pursuant to section 43-401, subsection G is to a qualifying
9 foster care charitable organization, the credit shall not exceed:

10 1. Four hundred dollars in any taxable year for a single individual or
11 a head of household.

12 2. Eight hundred dollars in any taxable year for a married couple
13 filing a joint return.

14 C. A husband and wife who file separate returns for a taxable year in
15 which they could have filed a joint return may each claim only one-half of
16 the tax credit that would have been allowed for a joint return.

17 D. If the allowable tax credit exceeds the taxes otherwise due under
18 this title on the claimant's income, or if there are no taxes due under this
19 title, the taxpayer may carry forward the amount of the claim not used to
20 offset the taxes under this title for not more than five consecutive taxable
21 years' income tax liability.

22 E. The credit allowed by this section is in lieu of a deduction
23 pursuant to section 170 of the internal revenue code and taken for state tax
24 purposes.

25 F. Taxpayers taking a credit authorized by this section shall provide
26 the name of the qualifying charitable organization and the amount of the
27 contribution to the department of revenue on forms provided by the
28 department.

29 G. A qualifying charitable organization shall provide the department
30 of revenue with a written certification that it meets all criteria to be
31 considered a qualifying charitable organization. The organization shall also
32 notify the department of any changes that may affect the qualifications under
33 this section.

34 H. The charitable organization's written certification must be signed
35 by an officer of the organization under penalty of perjury. The written
36 certification must include the following:

37 1. Verification of the organization's status under section 501(c)(3)
38 of the internal revenue code or verification that the organization is a
39 designated community action agency that receives community services block
40 grant program monies pursuant to 42 United States Code section 9901.

41 2. Financial data indicating the organization's budget for the
42 organization's prior operating year and the amount of that budget spent on
43 services to residents of this state who either:

44 (a) Receive temporary assistance for needy families benefits.
45 (b) Are low income residents of this state.

1 (c) Are chronically ill or ~~physically disabled~~ children WITH PHYSICAL
2 DISABILITIES.

3 3. A statement that the organization plans to continue spending at
4 least fifty per cent of its budget on services to residents of this state who
5 receive temporary assistance for needy families benefits, who are low income
6 residents of this state or who are chronically ill or ~~physically disabled~~
7 children WITH PHYSICAL DISABILITIES.

8 4. A statement that the organization does not provide, pay for or
9 provide coverage of abortions and does not financially support any other
10 entity that provides, pays for or provides coverage of abortions.

11 I. The department shall review each written certification and
12 determine whether the organization meets all the criteria to be considered a
13 qualifying charitable organization and notify the organization of its
14 determination. The department may also periodically request recertification
15 from the organization. The department shall compile and make available to
16 the public a list of the qualifying charitable organizations.

17 J. For the purposes of this section:

18 1. "Chronically ill or ~~physically disabled~~ children WITH PHYSICAL
19 DISABILITIES" has the same meaning prescribed in section 36-260.

20 2. "Low income residents" means persons whose household income is less
21 than one hundred fifty per cent of the federal poverty level.

22 3. "Qualifying charitable organization" means a charitable
23 organization that is exempt from federal income taxation under section
24 501(c)(3) of the internal revenue code or is a designated community action
25 agency that receives community services block grant program monies pursuant
26 to 42 United States Code section 9901. The organization must spend at least
27 fifty per cent of its budget on services to residents of this state who
28 receive temporary assistance for needy families benefits or low income
29 residents of this state and their households or to chronically ill or
30 ~~physically disabled~~ children WITH PHYSICAL DISABILITIES who are residents of
31 this state. Taxpayers choosing to make donations through an umbrella
32 charitable organization that collects donations on behalf of member charities
33 shall designate that the donation be directed to a member charitable
34 organization that would qualify under this section on a stand-alone
35 basis. Qualifying charitable organization does not include any entity that
36 provides, pays for or provides coverage of abortions or that financially
37 supports any other entity that provides, pays for or provides coverage of
38 abortions.

39 4. "Qualifying foster care charitable organization" means a qualifying
40 charitable organization that each operating year provides services to at
41 least two hundred foster children in this state and spends at least fifty per
42 cent of its budget on services to foster children in this state. For the
43 purposes of this paragraph, "foster children" has the same meaning prescribed
44 in section 8-501.

1 period of more than thirty days, the director may grant to the applicant a
2 written waiver allowing installation of plumbing fixtures that do not meet
3 the standards prescribed by this article for a period of one hundred eighty
4 days from the date the waiver is issued. If plumbing fixtures meeting the
5 requirements of this article become available before the one hundred eighty
6 day period expires, the waiver terminates automatically except as to any
7 noncomplying plumbing fixtures already purchased pursuant to a waiver
8 obtained under this subsection.

9 C. If a water conserving plumbing fixture required by this article
10 would cause a health or safety hazard or an unusual hardship, including any
11 hardship for ~~the handicapped~~ PERSONS WITH DISABILITIES or officially
12 designated historic buildings, or would require a greater quantity of water
13 to be used to operate the fixture properly if installed in a new or existing
14 building, the developer, builder, contractor, owner or tenant of the building
15 may apply for a waiver of the requirements of this article. The application
16 for waiver shall be in writing, shall contain sufficient documentation to
17 support the claim that the fixture would cause a health or safety hazard or
18 an unusual hardship, including any hardship to ~~the handicapped~~ PERSONS WITH
19 DISABILITIES or officially designated historic buildings, or would require a
20 greater quantity of water to be used to operate the fixture properly, and
21 shall be delivered to the director, either personally or by certified
22 mail. The director may request additional information in order to determine
23 whether the application for waiver is valid.

24 D. Within three days of receipt of a completed application for a
25 waiver pursuant to subsection C, the director shall either grant or deny the
26 waiver. If the director finds that the use of a water conserving plumbing
27 fixture required by this article would cause a health or safety hazard or an
28 unusual hardship, including any hardship for ~~the handicapped~~ PERSONS WITH
29 DISABILITIES or officially designated historic buildings, or would require a
30 greater quantity of water to be used to operate the fixture properly, the
31 director may grant to the applicant a written waiver allowing installation of
32 noncomplying plumbing fixtures for those uses identified in the application.

33 Sec. 213. Section 46-191, Arizona Revised Statutes, is amended to
34 read:

35 46-191. Definitions

36 In this article, unless the context otherwise requires:

37 1. "Adult day care" or "adult day health" means services which provide
38 adults with optimal personal care in a group setting during a portion of a
39 twenty-four hour day. This service provides planned care and supervision,
40 recreation and socialization, personal care, personal living skills training,
41 congregate meals and health monitoring and may include health related
42 services such as preventive, therapeutic and restorative health care.

43 2. "Attendant care" means a service which provides a trained attendant
44 to provide assistance with homemaking, general supervision and personal care.

1 3. "Case management services" means the assessment and development of
2 an individualized service plan through which the eligibility of individuals
3 is determined, appropriate services or benefits are identified, planned,
4 reported, monitored or terminated and follow-up is provided if and when
5 appropriate.

6 4. "Home care services" means services provided to an individual who
7 is functionally impaired and unable to perform activities of daily living.
8 These services include case management, assessment of functional impairment
9 and needed community services, home care, housekeeping chore services, home
10 health aid, personal care, visiting nurse services, adult day care, adult day
11 health, respite care, attendant care and home delivered meals.

12 5. "Home delivered meals service" means a nutritious meal which
13 contains at least one-third of the recommended dietary allowance for an
14 individual and is delivered to the individual's place of residence.

15 6. "Home health aid" means services which provide intermittent health
16 maintenance, continued treatment or monitoring of a health condition and
17 supportive care for activities of daily living within the individual's place
18 of residence.

19 7. "Nonmedical home and community based care system" means a
20 comprehensive, case managed system of care which is provided to a
21 ~~functionally disabled~~ FUNCTIONAL person WITH A DISABILITY in the person's
22 home or community and which supports the role of the family and caregivers as
23 a part of the care plan which may include personal care, housekeeper chore
24 services, adult day care, adult day health care, respite care and home
25 delivered meals, as well as health care services which are a necessary, but
26 subordinate, part of the care plan.

27 8. "Older Arizonan" means a resident of this state who is at least
28 sixty years of age.

29 ~~10-~~ 9. "~~Physically disabled~~ PERSON WITH A PHYSICAL DISABILITY" means
30 an individual who has a physical impairment that substantially limits one or
31 more major life activities and who has a diagnosis of such impairment.

32 ~~9-~~ 10. "Personal care" means assistance to meet essential personal
33 physical needs.

34 11. "Respite sitter services" means short-term care and supervision
35 which may be required to be available on a twenty-four hour basis.

36 12. "Visiting nurse services" means services which provide
37 intermittent skilled nursing services in the individual's place of
38 residence. Skilled nursing services may include health maintenance,
39 continued treatment or supervision of a health condition.

40 Sec. 214. Section 46-241.02, Arizona Revised Statutes, is amended to
41 read:

42 46-241.02. Eligibility for short-term crisis services

43 To qualify for short-term crisis services, an applicant shall prove
44 that the applicant meets all of the following requirements:

1 1. The applicant is a resident of this state at the time of
2 application.

3 2. The applicant is experiencing a short-term crisis that will cause
4 homelessness or the interruption of heating or cooling at the applicant's
5 residence.

6 3. The total gross countable income of the applicant's household does
7 not exceed:

8 (a) One hundred twenty-five per cent of the federal poverty
9 guidelines.

10 (b) One hundred fifty per cent of the federal poverty guidelines if
11 the household includes a ~~disabled~~ PERSON WITH A DISABILITY or elderly
12 person.

13 Sec. 215. Section 46-251, Arizona Revised Statutes, is amended to
14 read:

15 46-251. Mandatory state supplemental payments program

16 A. The mandatory state supplemental payments program provided for in
17 this section may be administered directly by the department, or by the
18 federal government under agreement with the department whereby the department
19 pays to the federal government the cost of supplemental payments made under
20 this section and the federal government administers the program pursuant to
21 the agreement and title XVI of the social security act, as amended.

22 B. Mandatory state supplemental payments shall be granted for January
23 1974 and thereafter under this section to any person who meets and maintains
24 the following requirements:

25 1. Was qualified for and received a state public assistance payment
26 under the federally assisted program of old age assistance or aid to the
27 blind or aid to ~~the permanently and totally disabled~~ PERSONS WITH PERMANENT
28 AND TOTAL DISABILITY for the month of December 1973, and

29 2. Is eligible for and receives, or who, but for his income, would be
30 eligible to receive, a payment under title XVI of the social security act, as
31 amended.

32 C. The amount of mandatory state supplemental payment to a recipient
33 for a month shall be an amount equal to the amount by which such individual's
34 December 1973 minimum income level as defined in title XVI of the social
35 security act as amended, exceeds the amount of such individual's title XVI
36 benefit plus other income.

37 Sec. 216. Section 46-299, Arizona Revised Statutes, is amended to
38 read:

39 46-299. Jobs program; definition

40 A. As a condition of eligibility or continuing eligibility for cash
41 assistance, all recipients shall engage in work activities that are
42 established in this article and determined appropriate by the
43 department. ~~A disabled~~ AN individual WITH A DISABILITY shall engage in work
44 activities as required by this subsection unless the ~~disabled~~ individual WITH
45 A DISABILITY provides the department verification of a condition that meets

1 disability or temporary disability criteria established by the department.
2 The following individuals are temporarily deferred from the requirement to
3 engage in work activities:

4 1. A parent in a single parent family or a nonparent relative
5 personally caring for a child who is under the age of twelve months for a
6 period of not more than twelve months in the recipient's lifetime. This
7 deferral does not apply to teenaged custodial parents who do not have a high
8 school diploma or its equivalent.

9 2. An unmarried custodial parent who is under eighteen years of age
10 and who is personally caring for a child who is under the age of twelve
11 weeks.

12 3. An individual who provides verification acceptable to the
13 department that the individual is personally caring for the individual's
14 dependent who is ~~disabled~~ A PERSON WITH A DISABILITY and unable to care for
15 himself.

16 4. Victims of domestic violence whose participation in work activities
17 causes an immediate threat to their own safety or the safety of their
18 children.

19 5. Dependent children as defined in this article.

20 B. To the extent that the state meets the federally required work
21 participation rates, unmarried custodial parents may attend a postsecondary
22 educational program full time in lieu of standard work participation
23 requirements. The department may require additional work activities.

24 C. Teenaged heads of household who are under twenty years of age and
25 who have not attained their high school diploma or its equivalent are
26 required to either:

27 1. Maintain satisfactory attendance at a secondary school or the
28 equivalent.

29 2. Satisfactorily participate in education directly related to
30 employment at the level of participation established by the department.

31 D. The department may establish the minimum work participation level
32 required to meet the work requirements established in Public Law 104-193,
33 section 407 (1996).

34 E. All cash assistance recipients, excluding dependent children, shall
35 complete a personal responsibility declaration.

36 F. All cash assistance recipients, excluding dependent children
37 complying with compulsory school requirements as prescribed in section
38 15-803, shall also participate in the development of an employment plan and
39 shall receive services in support of and as specified in that plan.

40 G. Participants who fail or refuse to engage in work activities as
41 required by the department are subject to the progressive sanctions
42 prescribed in section 46-300.

43 H. The department shall adopt rules that establish good cause reasons
44 that excuse the participant from engaging in work activities.

1 I. This state shall provide workers' compensation coverage for cash
2 assistance recipients engaged in unpaid work experience or community service
3 programs as established in this article. The cost shall be paid from the
4 temporary assistance for needy families monies.

5 J. The department may operate on a statewide basis a wage subsidy
6 program. Employers may hire recipients of cash assistance and food stamps
7 for subsidized job slots that are full time and that offer a reasonable
8 possibility of unsubsidized employment after the subsidy period. This
9 program shall provide that:

10 1. Employers who operate an approved wage subsidy program shall
11 receive a subsidy for up to six months. The department may grant an
12 extension of three months to employers operating in areas identified as
13 having a higher unemployment rate than the state average, as defined by the
14 department, if the extension increases the likelihood of ongoing unsubsidized
15 employment for the subsidized employee.

16 2. The department shall ensure that subsidized jobs made available to
17 subsidized employees:

18 (a) Do not require work in excess of forty hours per week.

19 (b) Pay a wage that is substantially like the wage paid for similar
20 jobs with the employer with appropriate adjustments for experience and
21 training but not less than the federal minimum hourly wage.

22 (c) Do not impair an existing contract or collective bargaining
23 agreement.

24 (d) Do not displace currently employed workers or fill positions that
25 are vacant due to a layoff.

26 3. Wage subsidy employers shall:

27 (a) Maintain health, safety and working conditions at or above levels
28 generally acceptable in the industry and not less than those of comparable
29 jobs offered by the employer.

30 (b) Provide on-the-job training necessary for subsidized employees to
31 perform their duties.

32 (c) Sign an agreement for each placement outlining the specific job
33 offered to a subsidized employee and agree to abide by all of the
34 requirements of the program. All agreements shall contain a provision that
35 sets forth the employer's responsibility to repay subsidies paid under this
36 article if the employer violates program requirements.

37 (d) Provide workers' compensation coverage for each subsidized
38 employee they employ.

39 (e) Provide the subsidized employee with benefits equal to those for
40 new employees or as required by state and federal law, whichever is greater.
41 For purposes of this ~~paragraph~~ SUBDIVISION, "benefits" includes health care
42 coverage, paid sick leave and holiday and vacation pay.

43 4. Eligible subsidized employees are those who:

44 (a) Do not have sufficient work experience to obtain unsubsidized
45 employment.

- 1 (b) Have completed an employment preparation program.
- 2 (c) Are deemed able to benefit from this employment strategy by the
- 3 department.

4 5. The department shall:

5 (a) Disregard income earned by the subsidized employee in the

6 subsidized job when determining the household's eligibility for cash

7 assistance and food stamps.

8 (b) Suspend regular payments of cash assistance and food stamps to the

9 household at the end of the calendar month in which an employer makes the

10 first subsidized wage payment to a subsidized employee who is otherwise

11 eligible to receive the cash assistance and food stamps.

12 (c) Reimburse employers each month, from cash assistance and food

13 stamps, the lesser of a fixed subsidy amount determined by the department or

14 the gross wages paid to the subsidized employee.

15 (d) Determine eligibility for supplemental payments as follows:

16 (i) If the net monthly full-time wage paid to a subsidized employee is

17 less than the combined monthly total of the cash assistance and food stamps

18 the participant is eligible to receive, the department shall authorize

19 issuance of a supplemental cash payment to compensate for the deficit. To

20 determine if a deficit exists, the department shall adopt, through rules, an

21 equivalency scale that is adjustable to household size and other factors.

22 For purposes of this ~~section~~ ITEM, "net monthly full-time wage" refers to a

23 participant's wages after required payroll deductions.

24 (ii) The department shall monthly determine and pay in advance

25 supplemental payments to eligible subsidized employees. In calculating the

26 payment, the department shall assume that the participant will work forty

27 hours per week during the month unless an employer provides information that

28 the number of hours to be worked by a subsidized employee will be reduced.

29 K. For purposes of this section, "subsidized employee" means an

30 individual engaged in this subsidized employment activity.

31 Sec. 217. Section 46-451, Arizona Revised Statutes, is amended to

32 read:

33 46-451. Definitions; program goals

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

35 1. "Abuse" means:

36 (a) Intentional infliction of physical harm.

37 (b) Injury caused by negligent acts or omissions.

38 (c) Unreasonable confinement.

39 (d) Sexual abuse or sexual assault.

40 2. "De facto conservator" means any person who takes possession of the

41 estate of a vulnerable adult, without right or lawful authority. A de facto

42 conservator is subject to all of the responsibilities that attach to a

43 legally appointed conservator or trustee.

44 3. "De facto guardian" means any person who takes possession of the

45 person of a vulnerable adult, without right or lawful authority. A de facto

1 guardian is subject to all of the responsibilities that attach to a legally
2 appointed guardian.

3 4. "Exploitation" means the illegal or improper use of a vulnerable
4 adult or his resources for another's profit or advantage.

5 5. "Informed consent" means any of the following:

6 (a) A written expression by the person that the person fully
7 understands the potential risks and benefits of the withdrawal of food,
8 water, medication, medical services, shelter, cooling, heating or other
9 services necessary to maintain minimum physical or mental health and that the
10 person desires that the services be withdrawn. A written expression is valid
11 only if the person is of sound mind and if the consent is witnessed by at
12 least two individuals who do not benefit by the withdrawal of services.

13 (b) Consent to withdraw food, water, medication, medical services,
14 shelter, cooling, heating or other services necessary to maintain minimum
15 physical or mental health as permitted by an order of a court of competent
16 jurisdiction.

17 (c) A declaration made pursuant to title 36, chapter 32.

18 (d) Consent by another person under a durable power of attorney
19 relating to health care services to withdraw food, water, medication, medical
20 services, shelter, cooling, heating or other services necessary to maintain
21 minimum physical or mental health.

22 6. "Neglect" means a pattern of conduct without the person's informed
23 consent resulting in deprivation of food, water, medication, medical
24 services, shelter, cooling, heating or other services necessary to maintain
25 minimum physical or mental health.

26 7. "Protective services" means a program of identifiable and
27 specialized social services that may offer social services appropriate to
28 resolve problems of abuse, exploitation or neglect of a vulnerable adult.

29 8. "Protective services worker" means a person who has been selected
30 by and trained under the requirements prescribed by the department to provide
31 protective services.

32 9. "Vulnerable adult" means an individual who is eighteen years of age
33 or older and who is unable to protect himself from abuse, neglect or
34 exploitation by others because of a physical or mental impairment.
35 Vulnerable adult includes an incapacitated person as defined in section
36 14-5101.

37 B. Protective services programs shall seek to maintain the adult in
38 his familiar environment by strengthening his capacity for self-maintenance
39 or by providing supportive services.

40 C. Nothing in this section shall be construed to mean that an adult is
41 abused, neglected or in need of protective services for the sole reason that
42 he relies on treatment from a recognized religious method of healing in lieu
43 of medical treatment.

44 D. For the purposes of this section, a person is not exploited by a
45 transfer of assets if the transfer is to obtain or maintain eligibility for

1 benefits under title 36, chapter 29 or benefits for supplemental security
2 income, medicare or veterans' administration programs and the transfer of
3 assets is between the person and any of the following:

- 4 1. The person's spouse.
- 5 2. The person's ~~disabled~~ child WITH A DISABILITY.
- 6 3. A trust for the benefit of the person's spouse or ~~disabled~~ child
7 WITH A DISABILITY.

8 E. A transfer of assets for the purpose of obtaining or maintaining
9 eligibility for benefits under title 36, chapter 29 shall comply with 42
10 United States Code section 1396p and sections 36-2934 and 36-2934.01.

11 Sec. 218. Section 46-741, Arizona Revised Statutes, is amended to
12 read:

13 46-741. Neighbors helping neighbors fund; definition

14 A. A neighbors helping neighbors fund is established to provide
15 eligible recipients with assistance in paying utility bills, conserving
16 energy and weatherization. The department shall administer the fund. The
17 department shall coordinate this assistance with its low income energy
18 assistance program and its weatherization assistance program.

19 B. Eligible recipients are individuals who have a household income at
20 or below one hundred twenty-five per cent of the poverty level or individuals
21 who are sixty years of age or older or ~~handicapped~~ PERSONS WITH DISABILITIES
22 and who have a household income at or below one hundred fifty per cent of the
23 poverty level. For the purposes of this subsection, the poverty level is as
24 determined by the United States office of management and budget and reported
25 in the federal register.

26 C. Beginning July 1, 1993, the director shall provide the use of
27 neighbors helping neighbors fund monies to designated community action or
28 other agencies currently providing energy assistance services to individuals
29 who are eligible under subsection B OF THIS SECTION to receive assistance
30 under this article.

31 D. Monies in the neighbors helping neighbors fund do not revert to the
32 state general fund.

33 E. An amount of not more than two per cent of the neighbors helping
34 neighbors fund monies may be used by the department and an amount of not more
35 than eight per cent of the fund monies may be used by the agencies to
36 reimburse them for their administrative costs in providing services under
37 this article.

38 F. On or before October 15 of each year, the director shall submit a
39 report to the appropriate legislative committees that includes summaries of
40 total monies collected and distributed under this article and such other
41 information as the legislative committees request.

42 G. For purposes of this section, "utility" means a person who
43 transmits, sells, delivers or furnishes electricity, water, gas or
44 telecommunication services for public use.

1 Sec. 219. Section 48-222, Arizona Revised Statutes, is amended to
2 read:

3 48-222. District retirement plans authorized; benefits provided

4 A. A district which is not participating in the Arizona state
5 retirement system provided by title 38, chapter 5, article 2, or the
6 employees of which are not members of the Arizona state retirement system
7 may, by appropriate action of a majority of its governing body, adopt a
8 retirement plan for its employees.

9 B. Any such retirement plan may provide for such of the following
10 benefits in such amounts and at such times as the governing body of a
11 district may determine:

12 1. Retirement income or pensions for eligible district employees upon
13 attaining age not less than sixty years payable in installments not more
14 frequently than monthly, either from a trust fund and the income therefrom
15 created by employees' and district contributions or by the purchase of single
16 premium annuity contracts with legal reserve life insurance companies
17 authorized to transact business in Arizona in such amounts as the balance in
18 the employees' accounts on the books of the trust fund will provide.

19 2. The purchase by the district of a group annuity contract with a
20 reserve life insurance company providing for retirement income upon attaining
21 age not less than sixty years, for death benefits of a participant prior to
22 the participant's retirement, and for any of the other benefits mentioned in
23 this section.

24 3. Payment of retirement pension or income upon an employee ~~being~~
25 ~~totally and permanently disabled~~ **HAVING A PERMANENT AND TOTAL DISABILITY** to
26 the extent to which the employee is prevented from engaging in the employee's
27 normal occupation with the district. The disability retirement income shall
28 commence at such time as the plan adopted by the governing body of a district
29 shall provide.

30 4. Termination of service withdrawal benefits after both the
31 attainment of age fifty and five years of participation in the plan.

32 5. The establishment of nonforfeitable interests of various types in
33 any trust fund or annuity contract upon termination of service after not less
34 than five years of continuous participation in the plan, depending upon the
35 period of continuous participation.

36 6. Prior service retirement income and benefits.

37 C. The governing body is authorized to adopt such other provisions in
38 a plan as it may deem to be for the best interests of the participants and
39 the district and which are actuarially sound and not in conflict with the
40 provisions of this article.

41 Sec. 220. Section 48-3049, Arizona Revised Statutes, is amended to
42 read:

43 48-3049. Absent voters or voters with disabilities

44 An elector absent from the county in which the district is located, or
45 who expects to be absent therefrom at the time of holding an election in the

1 district, or who furnishes the secretary of the board with a doctor's
2 certificate of physical inability to attend the polls, may vote at an
3 election held in the district substantially in the manner as provided by
4 title 16, chapter 4, article 8. The duties therein required of the county
5 recorder shall be performed by the secretary of the board.

6 Sec. 221. Section 48-5308, Arizona Revised Statutes, is amended to
7 read:

8 48-5308. Distribution from regional transportation fund

9 A. All monies in the bond account of the regional transportation fund
10 shall be held in trust for the owners of the bonds. Monies in the bond
11 account:

12 1. Shall be paid out to paying agents or directly to the owners of the
13 bonds pursuant to the resolution or resolutions of the board authorizing the
14 issuance of the bonds.

15 2. May be used to pay bond related expenses or recurring expenses
16 pertaining to administration and payment of the bonds.

17 B. Monies in the bond proceeds account of the regional transportation
18 fund may be obligated or spent as directed by the board for the purposes
19 provided by subsection C of this section.

20 C. Except as provided in subsection D of this section, monies in the
21 construction account of the regional transportation fund shall be spent,
22 pledged or accumulated for the design, right-of-way purchase, construction,
23 operation, maintenance and contiguous open space preservation purchase
24 compatible with local environmental ordinance of, and within the expenditure
25 limits for, each element of the regional transportation plan.

26 D. Notwithstanding any other law, from the monies deposited in the
27 construction account of the regional transportation fund in each fiscal year,
28 the board shall distribute:

29 1. To each municipality, excluding the municipality that has the
30 largest population in the county, the greater amount of one per cent of the
31 revenues collected from the transportation excise tax authorized pursuant to
32 section 42-6106 or three hundred thousand dollars, to be used for purposes
33 consistent with subsection C of this section.

34 2. An amount of not more than three hundred thousand dollars to the
35 regional council of governments to hire professional planning, technical and
36 administrative staff required to accomplish plan development for the
37 authority pursuant to section 48-5309 and to perform the responsibilities as
38 the authority may require.

39 E. The three hundred thousand dollar distributions prescribed by
40 subsection D of this section are subject to:

41 1. Proration for any fiscal year in which a transportation excise tax
42 authorized pursuant to section 42-6106 is collected for less than a full
43 fiscal year.

44 2. Adjustment by the annual percentage change for the previous
45 calendar year in the GDP price deflator, as defined in section 41-563, for

1 each fiscal year after the first full fiscal year in which the transportation
2 excise tax is collected.

3 F. Beginning with the first fiscal year following voter approval of
4 the regional transportation plan, monies appropriated for each of the
5 following purposes, if approved by a majority of the qualified electors
6 voting at a special or general election, by each municipality or the county
7 in the authority shall not be less than the total amount of general monies
8 spent for those purposes in that municipality or county for fiscal year
9 2003-2004 adjusted by the annual percentage change for the previous calendar
10 year in the GDP price deflator as defined in section 41-563:

11 1. Roadway improvements, including controlled access highways,
12 parkways and controlled access arterials, arterial upgrades and related grade
13 separations.

14 2. Transit improvements for buses, including expansion of the bus
15 fleet and its associated maintenance facility, expansion of express routes
16 and associated connecting terminals, ridesharing, van pool fleet acquisition,
17 including special projects for ~~the handicapped~~ PERSONS WITH DISABILITIES and
18 elderly INDIVIDUALS, and park and ride lots.

19 3. An express and light rail system.

20 4. Bicycle projects, including striped lanes on arterials,
21 neighborhood bike routes and planning of bikeways focused on major regional
22 activity center destinations.

23 5. Pedestrian projects on arterial and collector streets, neighborhood
24 walkways and walkways focused on major regional activity center destinations.

25 Sec. 222. Legislative intent

26 This act replaces the term "disabled", "handicap", "handicapped" or
27 "handicapping" in each of the statutes in which it appears in the Arizona
28 Revised Statutes, except references to the proper name of a federal act, and
29 requires this state to use the term "persons with disabilities". It is the
30 intent of the legislature that agencies, boards, commissions, departments,
31 officers and other administrative units of this state make similar changes in
32 their respective administrative rules.

33 Sec. 223. Effective date

34 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2013,
35 chapter 255, section 13 and this act, and section 42-5159, Arizona Revised
36 Statutes, as amended by Laws 2013, chapter 255, section 17 and this act, are
37 effective from and after December 31, 2014.