

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

CHAPTER 214
HOUSE BILL 2388

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

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4 chapter 195, section 82, is repealed.

5 Sec. 2. Section 41-2501, Arizona Revised Statutes, as amended by Laws
6 2015, chapter 257, section 30, is amended to read:

7 41-2501. Applicability

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

11 B. This chapter applies to every expenditure of public monies,
12 including federal assistance monies except as otherwise specified in section
13 41-2637, by this state, acting through a state governmental unit as defined
14 in this chapter, under any contract, except that this chapter does not apply
15 to either grants as defined in this chapter, or contracts between this state
16 and its political subdivisions or other governments, except as provided in
17 chapter 24 of this title and in article 10 of this chapter. This chapter
18 also applies to the disposal of state materials. This chapter and rules
19 adopted under this chapter do not prevent any state governmental unit or
20 political subdivision from complying with the terms of any grant, gift,
21 bequest or cooperative agreement.

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

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

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

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

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

43 H. The Arizona health care cost containment system administration is
44 exempt from this chapter for provider contracts pursuant to section 36-2904,
45 subsection A and contracts for goods and services, including program
46 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 **AND**

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

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

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

15 K. The state transportation board and the director of the department
16 of transportation are exempt from this chapter other than section 41-2586 for
17 the procurement of construction or reconstruction, including engineering
18 services, of transportation facilities or highway facilities and any other
19 services that are directly related to land titles, appraisals, real property
20 acquisition, relocation, property management or building facility design and
21 construction for highway development and that are required pursuant to title
22 28, chapter 20.

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

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

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

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

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

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

- 1 1. With a provider licensed or certified by an agency of this state to
2 provide child day care services.
- 3 2. With area agencies on aging created pursuant to the older Americans
4 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001
5 through 3058ff).
- 6 3. For services pursuant to title 36, chapter 29, article 2.
- 7 4. With an eligible entity as defined by Public Law 105-285, section
8 673(1)(A)(i), as amended, for designated community services block grant
9 program monies and any other monies given to the eligible entity that
10 accomplishes the purpose of Public Law 105-285, section 672.
- 11 R. The ~~department of health services~~ ARIZONA HEALTH CARE COST
12 CONTAINMENT SYSTEM may not require that persons with whom it contracts follow
13 this chapter for the purposes of subcontracts entered into for the provision
14 of the following:
- 15 1. Mental health services pursuant to section 36-189, subsection B.
16 2. Services for the seriously mentally ill pursuant to title 36,
17 chapter 5, article 10.
18 3. Drug and alcohol services pursuant to section 36-141.
- 19 ~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS
20 WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS
21 ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to
22 title 36, chapter 30, article 1.
- 23 ~~S.~~ T. The department of health services is exempt from this chapter
24 for contracts for services of physicians at the Arizona state hospital.
- 25 ~~T.~~ U. Contracts for goods and services approved by the board of
26 trustees of the public safety personnel retirement system are exempt from
27 this chapter.
- 28 ~~U.~~ V. The Arizona department of agriculture is exempt from this
29 chapter with respect to contracts for private labor and equipment to effect
30 cotton or cotton stubble plow-up pursuant to rules adopted under title 3,
31 chapter 2, article 1.
- 32 ~~V.~~ W. The Arizona state parks board is exempt from this chapter for
33 purchases of guest supplies and items for resale such as food, linens, gift
34 items, sundries, furniture, china, glassware and utensils for the facilities
35 located in the Tonto natural bridge state park.
- 36 ~~W.~~ X. The Arizona state parks board is exempt from this chapter for
37 the purchase, production, promotion, distribution and sale of publications,
38 souvenirs and sundry items obtained and produced for resale.
- 39 ~~X.~~ Y. The Arizona state schools for the deaf and the blind are exempt
40 from this chapter for the purchase of textbooks and when purchasing products
41 through a cooperative that is organized and operates in accordance with state
42 law if such products are not available on a statewide contract and are
43 related to the operation of the schools or are products for which special
44 discounts are offered for educational institutions.
- 45 ~~Y.~~ Z. Expenditures of monies in the morale, welfare and recreational
46 fund established by section 26-153 are exempt from this chapter.

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

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

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

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

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

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

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

28 3. The director has complied with the requirements prescribed in title
29 28, chapter 13 in selecting an authorized third party.

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

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

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

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

42 ~~GG.~~ HH. The Arizona commerce authority is exempt from this chapter,
43 except article 10 for the purpose of cooperative purchases. The authority
44 shall adopt policies, procedures and practices, in consultation with the
45 department of administration, that are similar to and based on the policies
46 and procedures prescribed by this chapter for the purpose of increased public

1 confidence, fair and equitable treatment of all persons engaged in the
2 process and fostering broad competition while accomplishing flexibility to
3 achieve the authority's statutory requirements. The authority shall make its
4 policies, procedures and practices available to the public. The authority
5 may exempt specific expenditures from the policies, procedures and practices.

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

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

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

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

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

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

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

20 2. With an eligible entity as defined by Public Law 105-285, section
21 673(1)(A)(i), as amended, for designated community services block grant
22 program monies and any other monies given to the eligible entity that
23 accomplishes the purpose of Public Law 105-285, section 672.

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

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

28 **43-1021. Additions to Arizona gross income**

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

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

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

38 3. The amount of interest income received on obligations of any state,
39 territory or possession of the United States, or any political subdivision
40 thereof, located outside the state of Arizona, reduced, for tax years
41 beginning from and after December 31, 1996, by the amount of any interest on
42 indebtedness and other related expenses that were incurred or continued to
43 purchase or carry those obligations and that are not otherwise deducted or
44 subtracted in arriving at Arizona gross income.

45 4. The excess of a partner's share of partnership taxable income
46 required to be included under chapter 14, article 2 of this title over the

1 income required to be reported under section 702(a)(8) of the internal
2 revenue code.

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

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

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

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

21 9. The amount by which the adjusted basis computed under the internal
22 revenue code with respect to property for which a credit was claimed under
23 section 43-1080 and that is sold or otherwise disposed of during the taxable
24 year exceeds the adjusted basis of the property computed under section
25 43-1080.

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

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

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

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

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

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

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

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

12 18. The amount of a nonqualified withdrawal, as defined in section
13 15-1871, from a college savings plan established pursuant to section 529 of
14 the internal revenue code that is made to a distributee to the extent the
15 amount is not included in computing federal adjusted gross income, except
16 that the amount added under this paragraph shall not exceed the difference
17 between the amount subtracted under section 43-1022 in prior taxable years
18 and the amount added under this section in any prior taxable years.

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

24 20. The amount of any previously deferred original issue discount that
25 was deducted in computing federal adjusted gross income in the current year
26 pursuant to section 108(i) of the internal revenue code as added by section
27 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to
28 the extent that the amount was previously subtracted from Arizona gross
29 income pursuant to section 43-1022, paragraph 24.

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

35 ~~22-~~ 21. Amounts that are considered to be income under section
36 43-1032, subsection D because the amount is withdrawn from a long-term health
37 care savings account and not used to pay the taxpayer's long-term health care
38 expenses.

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

1 TAXABLE YEARS AND THE AMOUNT ADDED UNDER THIS SECTION IN ANY PRIOR TAXABLE
2 YEARS.

3 Sec. 4. Section 43-1022, Arizona Revised Statutes, is amended to read:
4 43-1022. Subtractions from Arizona gross income

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

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

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

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

15 (b) The Arizona state retirement system, the corrections officer
16 retirement plan, the public safety personnel retirement system, the elected
17 officials' retirement plan, an optional retirement program established by the
18 Arizona board of regents under section 15-1628, an optional retirement
19 program established by a community college district board under section
20 15-1451 or a retirement plan established for employees of a county, city or
21 town in this state.

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

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

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

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

35 7. The amount by which the adjusted basis of property described in
36 this paragraph and computed pursuant to this title and the income tax act of
37 1954, as amended, exceeds the adjusted basis of such property computed
38 pursuant to the internal revenue code. This paragraph shall apply to all
39 property that is held for the production of income and that is sold or
40 otherwise disposed of during the taxable year other than depreciable property
41 used in a trade or business.

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

44 9. The portion of any wages or salaries paid or incurred by the
45 taxpayer for the taxable year that is equal to the amount of the federal work
46 opportunity credit, the empowerment zone employment credit, the credit for

1 employer paid social security taxes on employee cash tips and the Indian
2 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
3 and 1396 of the internal revenue code.

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

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

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

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

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

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

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

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

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

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

45 20. For property placed in service:

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

7 (b) In taxable years beginning from and after December 31, 2012
8 through December 31, 2013, an amount determined in the year the asset was
9 placed in service based on the calculation in subdivision (a) of this
10 paragraph. In the first taxable year beginning from and after December 31,
11 2013, the taxpayer may elect to subtract the amount necessary to make the
12 depreciation claimed to date for the purposes of this title the same as it
13 would have been if subdivision (c) of this paragraph had applied for the
14 entire time the asset was in service. Subdivision (c) of this paragraph
15 applies for the remainder of the asset's life. If the taxpayer does not make
16 the election under this subdivision, subdivision (a) of this paragraph
17 applies for the remainder of the asset's life.

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

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

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

34 23. The amount contributed during the taxable year to college savings
35 plans established pursuant to section 529 of the internal revenue code to the
36 extent that the contributions were not deducted in computing federal adjusted
37 gross income. The amount subtracted shall not exceed:

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

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

45 24. The amount of any original issue discount that was deferred and not
46 allowed to be deducted in computing federal adjusted gross income in the

1 current taxable year pursuant to section 108(i) of the internal revenue code
2 as added by section 1231 of the American recovery and reinvestment act of
3 2009 (P.L. 111-5).

4 25. The amount of previously deferred discharge of indebtedness income
5 that is included in the computation of federal adjusted gross income in the
6 current taxable year pursuant to section 108(i) of the internal revenue code
7 as added by section 1231 of the American recovery and reinvestment act of
8 2009 (P.L. 111-5), to the extent that the amount was previously added to
9 Arizona gross income pursuant to section 43-1021, paragraph 19.

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

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

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

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

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

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

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

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

44 30. With respect to a long-term health care savings account established
45 pursuant to section 43-1032, the amount deposited by the taxpayer in the

1 account during the taxable year to the extent that the taxpayer's
2 contributions are included in the taxpayer's federal adjusted gross income.

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

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

11 CHAPTER 8
12 ARIZONA ABLE PROGRAM
13 ARTICLE 1. GENERAL PROVISIONS

14 46-901. Definitions

15 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- 16 1. "ABLE" MEANS THE ACHIEVING A BETTER LIFE EXPERIENCE ACT.
17 2. "ACCOUNT" MEANS AN INDIVIDUAL ACCOUNT IN THE FUND ESTABLISHED AS
18 PRESCRIBED IN THIS ARTICLE FOR A SINGLE DESIGNATED BENEFICIARY.
19 3. "COMMITTEE" MEANS THE ACHIEVING A BETTER LIFE EXPERIENCE ACT
20 OVERSIGHT COMMITTEE.
21 4. "DEPARTMENT" MEANS THE DEPARTMENT OF ECONOMIC SECURITY.
22 5. "DESIGNATED BENEFICIARY" MEANS THE ELIGIBLE INDIVIDUAL WHO
23 ESTABLISHES AN ACCOUNT AND WHO IS THE OWNER OF THE ACCOUNT.
24 6. "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS ENTITLED TO
25 BENEFITS BASED ON BLINDNESS OR DISABILITY UNDER TITLE II OR XVI OF THE SOCIAL
26 SECURITY ACT, AND SUCH BLINDNESS OR DISABILITY OCCURRED BEFORE THE DATE ON
27 WHICH THE INDIVIDUAL ATTAINED TWENTY-SIX YEARS OF AGE OR A DISABILITY
28 CERTIFICATION WITH RESPECT TO SUCH INDIVIDUAL IS FILED WITH THE UNITED STATES
29 SECRETARY OF THE TREASURY FOR SUCH TAXABLE YEAR AS STIPULATED IN 26 UNITED
30 STATES CODE SECTION 529A.
31 7. "FINANCIAL INSTITUTION" MEANS ANY BANK, COMMERCIAL BANK, NATIONAL
32 BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, INSURANCE
33 COMPANY, BROKERAGE FIRM OR OTHER SIMILAR ENTITY THAT IS AUTHORIZED TO DO
34 BUSINESS IN THIS STATE.
35 8. "FUND" MEANS THE ABLE PROGRAM FUND.
36 9. "PROGRAM" MEANS THE QUALIFIED ABLE PROGRAM THAT IS ESTABLISHED
37 UNDER THIS ARTICLE AND AS DEFINED IN 26 UNITED STATES CODE SECTION 529A.
38 10. "QUALIFIED DISABILITY EXPENSES" MEANS ANY EXPENSES THAT ARE
39 RELATED TO THE ELIGIBLE INDIVIDUAL'S BLINDNESS OR DISABILITY AND THAT ARE FOR
40 THE BENEFIT OF AN ELIGIBLE INDIVIDUAL WHO IS THE DESIGNATED BENEFICIARY OF AN
41 ACCOUNT, INCLUDING EDUCATION, HOUSING, TRANSPORTATION, EMPLOYMENT TRAINING
42 AND SUPPORT, ASSISTIVE TECHNOLOGY AND PERSONAL SUPPORT SERVICES, HEALTH CARE,
43 PREVENTION AND WELLNESS, FINANCIAL MANAGEMENT AND ADMINISTRATIVE SERVICES,
44 LEGAL FEES, EXPENSES FOR OVERSIGHT AND MONITORING AND FUNERAL AND BURIAL
45 EXPENSES AND ANY OTHER EXPENSES THAT ARE APPROVED BY THE UNITED STATES
46 SECRETARY OF THE TREASURY AS REQUIRED BY 26 UNITED STATES CODE SECTION 529A.

1 46-902. Qualified ABLE program: duties

2 THE DEPARTMENT SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

35 46-903. Use of contractor as account depository: program
36 manager

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

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

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

14 1. FINANCIAL STABILITY AND INTEGRITY.

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

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

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

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

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

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

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

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

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

43 F. A PROGRAM MANAGER SHALL:

44 1. TAKE ALL ACTION REQUIRED TO KEEP THE PROGRAM IN COMPLIANCE WITH THE
45 REQUIREMENTS OF THIS ARTICLE AND ALL ACTION NOT CONTRARY TO THIS ARTICLE OR
46 ITS CONTRACT TO MANAGE THE PROGRAM SO THAT IT IS TREATED AS A QUALIFIED ABLE

1 PROGRAM UNDER 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED
2 PURSUANT TO THAT SECTION.

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

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

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

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

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

23 46-904. Incapacitated or minor eligible individual

24 A. IF AN ELIGIBLE INDIVIDUAL IS A MINOR OR AN INCAPACITATED ADULT, THE
25 ACCOUNT MAY BE OPENED AND MANAGED BY ANY OF THE FOLLOWING AS LONG AS THE
26 INDIVIDUALS LISTED ARE NOT IN CONFLICT WITH 26 UNITED STATES CODE SECTION
27 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION:

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

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

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

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

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

41 46-905. Program requirements

42 A. THE PROGRAM SHALL REQUIRE:

43 1. A DESIGNATED BENEFICIARY TO HAVE ONLY ONE ACCOUNT.

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

1 3. CONTRIBUTIONS TO ACCOUNTS TO BE MADE ONLY IN CASH.
2 4. THAT ANY EXCESS CONTRIBUTIONS WITH RESPECT TO A DESIGNATED
3 BENEFICIARY BE REJECTED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND
4 ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.
5 B. CONTRIBUTIONS TO AND EARNINGS ON A DESIGNATED BENEFICIARY'S ACCOUNT
6 IN THIS OR ANY OTHER STATE SHALL NOT BE COUNTED AS INCOME OR RESOURCES OF THE
7 DESIGNATED BENEFICIARY FOR THE PURPOSES OF ELIGIBILITY FOR ANY PROGRAM UNDER
8 THIS TITLE OR TITLE 36, CHAPTER 29.
9 C. SUBJECT TO ANY OUTSTANDING PAYMENTS DUE FOR QUALIFIED DISABILITY
10 EXPENSES, ON THE DEATH OF THE DESIGNATED BENEFICIARY, A CLAIM MAY BE FILED
11 FOR PAYMENT OF ALL AMOUNTS REMAINING IN THE ACCOUNT NOT IN EXCESS OF THE
12 AMOUNT EQUAL TO THE TOTAL MEDICAL ASSISTANCE PAID FOR THE DESIGNATED
13 BENEFICIARY AFTER ESTABLISHMENT OF THE ACCOUNT AS AUTHORIZED BY 26 UNITED
14 STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.
15 D. AN ACCOUNT MAY BE OPENED BY A DESIGNATED BENEFICIARY BY COMPLETING
16 AN APPLICATION IN THE FORM PRESCRIBED BY THE DEPARTMENT. SEPARATE RECORDS
17 AND ACCOUNTING SHALL BE MAINTAINED FOR EACH ACCOUNT FOR EACH DESIGNATED
18 BENEFICIARY.
19 E. A DESIGNATED BENEFICIARY MAY NOT USE AN INTEREST IN AN ACCOUNT AS
20 SECURITY FOR A LOAN. ANY PLEDGE OF AN INTEREST IN AN ACCOUNT IS OF NO FORCE
21 AND EFFECT.
22 F. THE FINANCIAL INSTITUTION SHALL PROVIDE STATEMENTS TO EACH
23 DESIGNATED BENEFICIARY AT LEAST ONCE EACH YEAR WITHIN THIRTY-ONE DAYS AFTER
24 THE TWELVE-MONTH PERIOD TO WHICH THEY RELATE. THE STATEMENT SHALL IDENTIFY
25 THE CONTRIBUTIONS MADE DURING A PRECEDING TWELVE-MONTH PERIOD, THE TOTAL
26 CONTRIBUTIONS MADE THROUGH THE END OF THE PERIOD, THE VALUE OF THE ACCOUNT AS
27 OF THE END OF THIS PERIOD, DISTRIBUTIONS MADE DURING THIS PERIOD AND ANY
28 OTHER MATTERS THAT THE DEPARTMENT REQUIRES BE REPORTED TO THE ACCOUNT OWNER.
29 G. STATEMENTS AND INFORMATION RETURNS RELATING TO ACCOUNTS SHALL BE
30 PREPARED AND FILED TO THE EXTENT REQUIRED BY FEDERAL OR STATE LAW.
31 H. ANY SOCIAL SECURITY NUMBERS, ADDRESSES OR TELEPHONE NUMBERS OF
32 DESIGNATED BENEFICIARIES THAT COME INTO THE POSSESSION OF THE DEPARTMENT ARE
33 CONFIDENTIAL, ARE NOT PUBLIC RECORDS AND SHALL NOT BE RELEASED BY THE
34 DEPARTMENT.
35 46-906. Limitations of article
36 A. THIS ARTICLE DOES NOT:
37 1. GIVE ANY DESIGNATED BENEFICIARY ANY RIGHTS OR LEGAL INTEREST IN AN
38 ACCOUNT UNLESS THE DESIGNATED BENEFICIARY IS THE ACCOUNT OWNER.
39 2. GUARANTEE THAT AN ELIGIBLE INDIVIDUAL WILL RECEIVE SERVICES FROM A
40 DEPARTMENT OR AGENCY OF THIS STATE RELATED TO THE ELIGIBLE INDIVIDUAL'S
41 DISABILITY.
42 3. GUARANTEE THAT THE AMOUNTS DEPOSITED IN AN ELIGIBLE INDIVIDUAL'S
43 ACCOUNT AND ANY EARNINGS ON THAT ACCOUNT PURSUANT TO THE PROGRAM WILL BE
44 SUFFICIENT TO COVER ANY QUALIFIED DISABILITY EXPENSE OF THE ELIGIBLE
45 INDIVIDUAL.

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

- 4 1. THE RETURN OF ANY AMOUNTS CONTRIBUTED TO AN ACCOUNT.
- 5 2. THE RATE OF INTEREST OR OTHER RETURN ON ANY ACCOUNT.
- 6 3. THE PAYMENT OF INTEREST OR OTHER RETURN ON ANY ACCOUNT.

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

12 46-907. Achieving a better life experience act oversight
13 committee; termination

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

- 16 1. THE DIRECTOR OF THE DEPARTMENT OR THE DIRECTOR'S DESIGNEE.
- 17 2. THE STATE TREASURER OR THE STATE TREASURER'S DESIGNEE.
- 18 3. ONE MEMBER WHO HAS KNOWLEDGE, SKILL AND EXPERIENCE IN INVESTMENT,
19 ASSET MANAGEMENT OR FINANCIAL-RELATED EXPERIENCE AND WHO IS APPOINTED BY THE
20 GOVERNOR.

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

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

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

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

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

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

35 D. THE COMMITTEE SHALL:

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

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

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

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

45 5. MONITOR THE USE AND EFFECTIVENESS OF THE PROGRAM, INCLUDING THE
46 NUMBER OF ACCOUNTS ESTABLISHED AND USED, THE NUMBER OF DESIGNATED

1 BENEFICIARIES BEING SERVED, A DESCRIPTION OF THE TYPES OF DISABILITIES THE
2 DESIGNATED BENEFICIARIES HAVE AND THE TYPES OF EXPENSES FOR WHICH
3 DISBURSEMENTS HAVE BEEN MADE.

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

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

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

11 46-908. Program termination

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

14 Sec. 6. Annual report

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

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

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

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

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

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

38 Sec. 8. Rulemaking

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

43 B. For the purposes of this act, the department of economic security
44 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona
45 Revised Statutes, for one year after the effective date of this act. The
46 department shall consult with the achieving a better life experience act

1 oversight committee established by section 46-907, Arizona Revised Statutes,
2 as added by this act, when drafting the rules and shall provide a thirty-day
3 public comment period on the draft rules and hold at least one public hearing
4 before adopting the rules.

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

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

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

14 Sec. 10. Retroactivity

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

APPROVED BY THE GOVERNOR MAY 12, 2016.

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