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

HOUSE BILL 2213

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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

4-116. Receipts from club licenses and applications
Notwithstanding any provision of law to the contrary, all receipts derived from club licenses and applications therefor are appropriated to the department of mental retardation ECONOMIC SECURITY for buildings, equipment or other capital investments. All revenue so received by the department shall be deposited, pursuant to sections 35-146 and 35-147, in the department of mental retardation capital investment ECONOMIC SECURITY CAPITAL INVESTMENTS fund.

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

8-291. Definitions
In this article, unless the context otherwise requires:
1. "Clinical liaison" means a mental health expert or another individual who has experience and training in mental health or developmental disabilities and who is qualified and appointed by the court to aid in coordinating the treatment or training of juveniles who are found incompetent to stand trial. If mental retardation DEVELOPMENTAL DISABILITY is an issue, the clinical liaison shall be an expert in mental retardation DEVELOPMENTAL DISABILITY.
2. "Incompetent" means a juvenile who does not have sufficient present ability to consult with the juvenile's lawyer with a reasonable degree of rational understanding or who does not have a rational and factual understanding of the proceedings against the juvenile. Age alone does not render a person incompetent.
3. "Juvenile" means a person who is under eighteen years of age at the time the issue of competency is raised.
4. "Mental health expert" means a physician who is licensed pursuant to title 32, chapter 13 or 17 or a psychologist who is licensed pursuant to title 32, chapter 19.1 and who is all of the following:
   (a) Familiar with this state's competency standards and statutes.
   (b) Familiar with the treatment, training and restoration programs that are available in this state.
   (c) Certified by the court as meeting court developed guidelines.

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

11-251. Powers of board
The board of supervisors, under such limitations and restrictions as are prescribed by law, may:
1. Supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing the public revenues, see that such officers faithfully perform their duties and direct prosecutions for delinquencies, and, when necessary, require the officers to renew their
official bonds, make reports and present their books and accounts for
inspection.

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

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

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

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

6. Provide suitable rooms for county purposes.

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

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

9. Sell at public auction, after thirty days' previous notice given by
publication in a newspaper of the county, stating the time and place of the
auction, and convey to the highest bidder, for cash or contract of purchase
extending not more than ten years from the date of sale and upon such
terms and conditions and for such consideration as the board shall prescribe,
any property belonging to the county that the board deems advantageous for
the county to sell, or that the board deems unnecessary for use by the
county, and shall pay the proceeds thereof into the county treasury for use
of the county, except that personal property need not be sold but may be used
as a trade-in on the purchase of personal property when the board deems this
disposition of the personal property to be in the best interests of the
county. When the property for sale is real property, the board shall have
such property appraised by a qualified independent fee appraiser who has an
office located in this state. The appraiser shall establish a minimum price,
which shall not be less than ninety per cent of the appraised value. The
notice regarding the sale of real property shall be published in the county
where the property is situated and may be published in one or more other
counties, and shall contain, among other things, the appraised value, the
minimum acceptable sale price, and the common and legal description of the
real property. Notwithstanding the requirement for a sale at public auction
prescribed in this paragraph, a county, and with unanimous consent of the
board, AND without a public auction, may sell or lease any county property to any other duly constituted governmental entity, including the state, cities, towns and other counties. A county, AND with unanimous consent of the board, AND without public auction, may grant an easement on county property for public purposes to a utility as defined in section 40-491. A county, AND with unanimous consent of the board, AND without public auction, may sell or lease any county property for a specific use to any solely charitable, social or benevolent nonprofit organization incorporated or operating in this state. A county may dispose of surplus equipment and materials that have little or no value or that are unauctionable in any manner authorized by the board.

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

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

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


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

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

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

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

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

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

20. Provide for rebinding county records, or, if necessary, the transcribing of county records.
21. Make and enforce necessary rules and regulations for the government of its body, the preservation of order and the transaction of business.

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

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

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

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

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

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

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

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

30. Do and perform all other acts and things necessary to the full discharge of its duties as the legislative authority of the county government, including receiving and accepting payment of monies by credit card or debit card, or both. Any fees or costs incurred by the use of the
credit or debit card shall be paid by the person tendering payment unless the
charging entity determines that the financial benefits of accepting credit
cards or debit cards exceeds the additional processing fees.

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

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

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

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

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

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

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

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

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

40. Enact ordinances under its police authority prescribing reasonable
curfews in the entire unincorporated area or any area less than the entire
unincorporated area of the county for minors and fines not to exceed the fine
for a petty offense for violation of such ordinances. Nothing in this
paragraph shall be construed to require a request from an association or a
majority of the residents of an area before the board may enact an ordinance
applicable to the entire or any portion of the unincorporated area. An
ordinance enacted pursuant to this paragraph shall provide that a minor is not violating a curfew if the minor is accompanied by a parent, a guardian or an adult having supervisorial custody, is on an emergency errand or has been specifically directed to the location on reasonable, legitimate business or some other activity by the parent, guardian or adult having supervisorial custody. If no curfew ordinance is applicable to a particular unincorporated area of the county, the board may adopt a curfew ordinance on the request or petition of either:

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

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

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

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

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

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

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

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

47. Make and enforce ordinances for the protection and disposition of domestic animals subject to inhumane, unhealthful or dangerous conditions or circumstances provided that nothing in this paragraph limits or restricts the authority granted to incorporated cities and towns or counties pursuant to section 13-2910. An ordinance enacted pursuant to this paragraph shall not restrict or limit the authority of the game and fish commission to regulate the taking of wildlife. For the purposes of this paragraph, "domestic
animal" means an animal kept as a pet and not primarily for economic purposes.

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

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

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

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

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

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

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

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

56. In addition to paragraph 9 of this section, and notwithstanding section 23-504, sell or dispose of, at no less than fair market value, county personal property that the board deems no longer useful or necessary through a retail outlet or to another government entity if the personal property has a fair market value of no more than one thousand dollars, or by retail sale or private bid, if the personal property has a fair market value of no more than fifteen thousand dollars. Notice of sales in excess of one thousand dollars shall include a description and sale price of each item and shall be
published in a newspaper of general circulation in the county, and for thirty
days after notice other bids may be submitted that exceed the sale price by
at least five per cent. The county shall select the highest bid received at
the end of the thirty day period.

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

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

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

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

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

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

63. Adopt and provide for the enforcement of ordinances prohibiting
open fires and campfires on designated lands in the unincorporated areas of
the county when a determination of emergency is issued by the county
emergency management officer and the board deems it necessary to protect
public health and safety on those lands.
64. Fix the amount of license fees to be paid by any person, firm, corporation or association for carrying on any game or amusement business in unincorporated areas of the county and prescribe the method of collection or payment of those fees, for a stated period in advance, and fix penalties for failure to comply by fine. Nothing in this article shall be construed as authorizing any county to require an occupational license or fee for any activity if state law precludes requiring such a license or fee.

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

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

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

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

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

Sec. 4. Repeal

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

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

13-753. Mental evaluations of capital defendants; hearing; appeal; definitions

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

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

C. If the prescreening psychological expert determines that the defendant's intelligence quotient is higher than seventy-five, the notice of intent to seek the death penalty shall not be dismissed on the ground that
the defendant has mental retardation AN INTELLECTUAL DISABILITY. If the
prescreening psychological expert determines that the defendant's
intelligence quotient is higher than seventy-five, the report shall be sealed
by the court and be available only to the defendant. The report shall be
released on the motion of any party if the defendant introduces the report in
the present case or is convicted of an offense in the present case and the
sentence is final. A prescreening determination that the defendant's
intelligence quotient is higher than seventy-five does not prevent the
defendant from introducing evidence of the defendant's mental retardation
status or diminished mental capacity at the penalty phase of
the sentencing proceeding.

D. If the prescreening psychological expert determines that the
defendant's intelligence quotient is seventy-five or less, the trial court,
within ten days of receiving the written report, shall order the state and
the defendant to each nominate three experts in mental retardation
INTELLECTUAL DISABILITIES, or jointly nominate a single expert in mental
retardation INTELLECTUAL DISABILITIES. The trial court shall appoint one
expert in mental retardation INTELLECTUAL DISABILITIES nominated by the state
and one expert in mental retardation INTELLECTUAL DISABILITIES nominated by
the defendant, or a single expert in mental retardation INTELLECTUAL DISABILITIES jointly nominated by the state and the defendant, none of whom
made the prescreening determination of the defendant's intelligence quotient.
The trial court, in its discretion, may appoint an additional expert in
mental retardation INTELLECTUAL DISABILITIES who was neither nominated by the
state nor the defendant, and who did not make the prescreening determination
of the defendant's intelligence quotient. Within forty-five days after the
trial court orders the state and the defendant to nominate experts in mental
retardation INTELLECTUAL DISABILITIES, or on the appointment of such experts,
whichever is later, the state and the defendant shall provide to the experts
in mental retardation INTELLECTUAL DISABILITIES and the court any available
records that may be relevant to the defendant's mental retardation status.
The court may extend the deadline for providing records on good cause shown
by the state or defendant.

E. Not less than twenty days after receipt of the records provided
pursuant to subsection D of this section, or twenty days after the expiration
of the deadline for providing the records, whichever is later, each expert in
mental retardation INTELLECTUAL DISABILITY shall examine the defendant using
current community, nationally and culturally accepted physical,
developmental, psychological and intelligence testing procedures, for the
purpose of determining whether the defendant has mental retardation AN
INTELLECTUAL DISABILITY. Within fifteen days of examining the defendant,
each expert in mental retardation INTELLECTUAL DISABILITIES shall submit a
written report to the trial court that includes the expert's opinion as to
whether the defendant has mental retardation AN INTELLECTUAL DISABILITY.
F. If the scores on all the tests for intelligence quotient administered to the defendant are above seventy, the notice of intent to seek the death penalty shall not be dismissed on the ground that the defendant has mental retardation AN INTELLECTUAL DISABILITY. This does not preclude the defendant from introducing evidence of the defendant's mental retardation INTELLECTUAL DISABILITY or diminished mental capacity at the penalty phase of the sentencing proceeding.

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

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

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

J. This section applies to all capital sentencing proceedings.

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

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

2. "Expert in mental retardation INTELLECTUAL DISABILITIES" means a psychologist or physician licensed pursuant to title 32, chapter 13, 17 or 19.1 with at least five years' experience in the testing or testing
assessment, evaluation and diagnosis of mental retardation INTELLECTUAL DISABILITIES.

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

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

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

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

13-4501. Definitions

In this chapter, unless the context otherwise requires:

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

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

3. "Mental health expert" means a physician who is licensed pursuant to title 32, chapter 13 or 17 or a psychologist who is licensed pursuant to title 32, chapter 19.1 and who is:
   (a) Familiar with this state's competency standards and statutes.
   (b) Familiar with the treatment, training and restoration programs that are available in this state.
   (c) Certified by the court as meeting court developed guidelines using recognized programs or standards.

4. "Mental illness, defect or disability" means a psychiatric or neurological disorder that is evidenced by behavioral or emotional symptoms,
including congenital mental conditions, conditions resulting from injury or disease and developmental disabilities as defined in section 36-551.

5. "Threat to public safety" means charged with the commission of any of the following:
   (a) A crime involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the infliction of physical injury on another person.
   (b) A dangerous crime against children pursuant to section 13-705.
   (c) Two or more nondangerous felonies within a period of twenty-four months.

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

15-761. Definitions
In this article, unless the context otherwise requires:
1. "Autism" means a developmental disability that significantly affects verbal and nonverbal communication and social interaction and that adversely affects educational performance. Characteristics include irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences. Autism does not include children with characteristics of emotional disability as defined in this section.
2. "Child with a disability":
   (a) Means a child who is at least three years but less than twenty-two years of age, who has been evaluated pursuant to section 15-766 and found to have at least one of the following disabilities and who, because of the disability, needs special education and related services:
      (i) Autism.
      (ii) Developmental delay.
      (iii) Emotional disability.
      (iv) Hearing impairment.
      (v) Other health impairments.
      (vi) Specific learning disability.
      (vii) Mild, moderate or severe mental retardation INTELLECTUAL DISABILITY.
      (viii) Multiple disabilities.
      (ix) Multiple disabilities with severe sensory impairment.
      (x) Orthopedic impairment.
      (xi) Preschool severe delay.
      (xii) Speech/language impairment.
      (xiii) Traumatic brain injury.
      (xiv) Visual impairment.
   (b) Does not include a child if the determinant factor for the classification is one or more of the following:
      (i) A lack of appropriate instruction in reading, including essential components of reading instruction.
(ii) A lack of appropriate instruction in mathematics.
(iii) Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.

3. "Developmental delay" means performance by a child who is at least three years of age but under ten years of age on a norm-referenced test that measures at least one and one-half, but not more than three, standard deviations below the mean for children of the same chronological age in two or more of the following areas:
   (a) Cognitive development.
   (b) Physical development.
   (c) Communication development.
   (d) Social or emotional development.
   (e) Adaptive development.

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

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

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

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

7. "Emotional disability":
   (a) Means a condition whereby a child exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's performance in the educational environment:
      (i) An inability to learn which cannot be explained by intellectual, sensory or health factors.
      (ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
      (iii) Inappropriate types of behavior or feelings under normal circumstances.
      (iv) A general pervasive mood of unhappiness or depression.
      (v) A tendency to develop physical symptoms or fears associated with personal or school problems.
   (b) Includes children who are schizophrenic but does not include children who are socially maladjusted unless they are also determined to have
an emotional disability as determined by evaluation as provided in section 15-766.

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

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

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

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

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

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

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

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

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

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

   (a) Two or more of the following conditions:
   
      (i) Hearing impairment.
(ii) Orthopedic impairment.
(iii) Moderate mental retardation INTELLECTUAL DISABILITY.
(iv) Visual impairment.

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

18. "Multiple disabilities with severe sensory impairment" means multiple disabilities that include at least one of the following:
   (a) Severe visual impairment or severe hearing impairment in combination with another severe disability.
   (b) Severe visual impairment and severe hearing impairment.

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

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

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

22. "Parent" means:
   (a) Either a natural or adoptive parent of a child.
   (b) A guardian, but not this state if the child is a ward of this state.
   (c) A person acting in the place of a natural or adoptive parent with whom the child lives or a person who is legally responsible for the child's welfare.
   (d) A surrogate parent.
   (e) A foster parent to the extent permitted by state law.

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

24. "Preschool severe delay" means performance by a preschool child on a norm-referenced test that measures more than three standard deviations below the mean for children of the same chronological age in one or more of the following areas:
   (a) Cognitive development.
   (b) Physical development.
   (c) Communication development.
   (d) Social or emotional development.
   (e) Adaptive development.
The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.

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

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

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

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

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

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

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

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

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

34. "Speech/language impairment":
   (a) For a preschool child, means performance on a norm-referenced language test that measures at least one and one-half standard deviations
below the mean for children of the same chronological age or whose speech, out of context, is unintelligible to a listener who is unfamiliar with the child. Eligibility for a preschool child under this subdivision is appropriate only when a comprehensive developmental assessment and parental input indicate that the preschool child is not eligible for services under another preschool category or under the developmental delay category.

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

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

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

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

38. "Traumatic brain injury":

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

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

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

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

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

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

15-901. Definitions

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

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

2. 1. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year WHO ARE ENROLLED ON SEPTEMBER 15, NOVEMBER
15, JANUARY 15 AND MARCH 15, DIVIDED BY FOUR. Withdrawals include students
formally withdrawn from schools and students absent for ten consecutive
school days, except for excused absences as identified by the department of
education. FOR THE PURPOSES OF THIS SECTION, SCHOOL DISTRICTS AND CHARTER
SCHOOLS SHALL REPORT STUDENT ABSENCE DATA TO THE DEPARTMENT OF EDUCATION AT
LEAST ONCE EVERY SIXTY DAYS IN SESSION. For computation purposes, the
effective date of withdrawal shall be retroactive to the last day of actual
attendance of the student OR EXCUSED ABSENCE.

(a) "Fractional student" means:

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

(ii) For high schools, a part-time student who is enrolled in less
than four subjects that count toward graduation as defined by the state board
of education in a recognized high school, and who is taught in less than
twenty instructional hours per week prorated for any week with fewer than
five school days. A part-time high school student shall be counted as
one-fourth, one-half or three-fourths of a full-time student if the student
is enrolled in an instructional program that is at least one-fourth, one-half
or three-fourths of a full-time instructional program as defined in
subdivision (c) of this paragraph. THE AVERAGE DAILY MEMBERSHIP OF A
PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.75 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL PROGRAM OF THREE SUBJECTS THAT MEET AT LEAST FIVE HUNDRED EIGHTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. THE AVERAGE DAILY MEMBERSHIP OF A PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.5 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL PROGRAM OF TWO SUBJECTS THAT MEET AT LEAST THREE HUNDRED SIXTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. THE AVERAGE DAILY MEMBERSHIP OF A PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.25 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL PROGRAM OF ONE SUBJECT THAT MEETS AT LEAST ONE HUNDRED EIGHTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION.

(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age prior to BEFORE January 1 of a school year, who has not graduated from the highest grade taught in the school district and who is regularly enrolled in a course of study required by the state board of education. Until fiscal year 2001-2002, first, second and third grade students, ungraded students at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities who are at least five, but under six, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least six hundred ninety-two hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least six hundred ninety-six hours. In fiscal year 2002-2003, the program shall meet at least seven hundred hours. In fiscal year 2003-2004, the program shall meet at least seven hundred four hours. In fiscal year 2004-2005, the program shall meet at least seven hundred eighty hours. Fourth, fifth and sixth grade students or ungraded students at least nine, but under twelve, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least eight hundred sixty-five hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least eight hundred seventy hours. In fiscal year 2002-2003, the program shall meet at least eight hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet at least eight hundred eighty hours. In fiscal year 2004-2005, the program shall meet at least eight hundred eighty-five hours. In fiscal year 2005-2006 and each fiscal year thereafter, the program shall meet at least eight hundred ninety hours. Until fiscal year 2001-2002, SEVEN HUNDRED TWELVE HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. Fourth, fifth and sixth grade students or ungraded students at least nine, but under twelve, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least eight hundred sixty-five hours during the minimum number of school days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least eight hundred seventy hours. In fiscal year 2002-2003, the program shall meet at least eight hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet at least eight hundred eighty hours. In fiscal year 2004-2005, the program shall meet at least eight hundred eighty-five hours. In fiscal year 2005-2006 and each fiscal year thereafter, the program shall meet at least eight hundred ninety hours. Until fiscal year 2001-2002, LEAST EIGHT HUNDRED NINETY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. Seventh and eighth grade students or ungraded students at least
twelve, but under fourteen, years of age by September 1 must be enrolled in
an instructional program that meets for a total of at least one thousand
thirty-eight hours during the minimum number of days required in a school
year as provided in section 15-341. In fiscal year 2001-2002, the program
shall meet at least one thousand forty-four hours. In fiscal year 2002-2003,
the program shall meet at least one thousand fifty hours. In fiscal year
2003-2004, the program shall meet at least one thousand fifty-six hours. In
fiscal year 2004-2005, the program shall meet at least one thousand sixty-two
hours. In fiscal years 2005-2006 through 2009-2010, the program shall meet
at least one thousand sixty-eight hours. In fiscal year 2010-2011 and each
fiscal year thereafter, the program shall meet at least one thousand hours.
Lunch periods and recess periods may not be included as part of the
instructional hours unless the student is a child with a disability and the
child's individualized education program requires instruction during those
periods and the specific reasons for such instruction are fully documented.
(ii) For high schools, except as provided in section 15-105, a student
not graduated from the highest grade taught in the school district, or an
ungraded student at least fourteen years of age by September 1, and enrolled
in at least a full-time AN instructional program of FOUR OR MORE subjects
that count toward graduation as defined by the state board of education, THAT
MEETS FOR A TOTAL OF AT LEAST SEVEN HUNDRED TWENTY HOURS FOR A ONE HUNDRED
EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION
in a recognized high school. A full-time student shall not be counted more
than once for computation of average daily membership. THE AVERAGE DAILY
MEMBERSHIP OF A FULL-TIME HIGH SCHOOL STUDENT SHALL BE 1.0 IF THE STUDENT IS
ENROLLED IN AT LEAST FOUR SUBJECTS THAT MEET AT LEAST SEVEN HUNDRED TWENTY
HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE EQUIVALENT
INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION.
(iii) Except as otherwise provided by law, for a full-time high school
student who is concurrently enrolled in two school districts or two charter
schools, the average daily membership shall not exceed 1.0.
(iv) Except as otherwise provided by law, for any student who is
concurrently enrolled in a school district and a charter school, the average
daily membership shall be apportioned between the school district and the
charter school and shall not exceed 1.0. The apportionment shall be based on
the percentage of total time that the student is enrolled in or in attendance
at the school district and the charter school.
(v) Except as otherwise provided by law, for any student who is
concurrently enrolled, pursuant to section 15-808, in a school district and
Arizona online instruction or a charter school and Arizona online
instruction, the average daily membership shall be apportioned between the
school district and Arizona online instruction or the charter school and
Arizona online instruction and shall not exceed 1.0. The apportionment shall
be based on the percentage of total time that the student is enrolled in or
in attendance at the school district and Arizona online instruction or the charter school and Arizona online instruction.

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

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

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

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

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

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

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

(vi) For fiscal year 2005-2006 and each fiscal year thereafter, an instructional program that meets at least a total of seven hundred twenty hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.
days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.

3. "Budget year" means the fiscal year for which the school district is budgeting and which immediately follows the current year.

4. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and either:
   (a) Grades one through eight.
   (b) Grades one through nine pursuant to section 15-447.01.

5. "Current year" means the fiscal year in which a school district is operating.

6. "Daily attendance" means:
   (a) For common schools, days in which a pupil:
       (i) Of a kindergarten program or ungraded, but not group B children with disabilities, and at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred forty-six hours but is less than six hundred ninety-two hours such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance.
       (ii) Of the first, second or third grades, ungraded and at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities and at least five, but under six, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day.
       (iii) Of the fourth, fifth or sixth grades or ungraded and at least nine, but under twelve, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.
       (iv) Of the seventh or eighth grades or ungraded and at least twelve, but under fourteen, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.
   (b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil's fractional membership:
       (i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day's attendance for each one-fourth of full-time instructional time attended.
(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day's attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance.

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

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

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

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

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

7. "Daily route mileage" means the sum of:

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

(b) The total number of miles driven daily on routes approved by the superintendent of public instruction for which a private party, a political subdivision or a common or a contract carrier is reimbursed for bringing an eligible student from the place of his residence to a school transportation
pickup point or to the school of attendance and from the school
transportation scheduled return point or from the school of attendance to his
residence. Daily route mileage includes the total number of miles necessary
to drive to transport eligible students from and to their residence as
provided in this paragraph.

7. "District support level" means the base support level plus the
transportation support level.

8. "Eligible students" means:

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

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

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

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

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

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

9. "Enrolled" or "enrollment" means when a pupil is currently
registered in the school district.

10. "GDP price deflator" means the average of the four implicit
price deflators for the gross domestic product reported by the United States
department of commerce for the four quarters of the calendar year.
11. “High school district” means a political subdivision of this state offering instruction to students for grades nine through twelve or that portion of the budget of a common school district which is allocated to teaching high school subjects with permission of the state board of education.

12. “Revenue control limit” means the base revenue control limit plus the transportation revenue control limit.

13. “Student count” means average daily membership as prescribed in this subsection for the fiscal year prior to the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

14. “Submit electronically” means submitted in a format and in a manner prescribed by the department of education.

15. “Total bus mileage” means the total number of miles driven by all buses of a school district during the school year.

16. “Total students transported” means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

17. “Unified school district” means a political subdivision of the state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

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

1. “Base” means the revenue level per student count specified by the legislature.

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

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

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

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

3. “Base revenue control limit” means the base revenue control limit computed as provided in section 15-944.

4. “Base support level” means the base support level as provided in section 15-943.

5. “Certified teacher” means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders
direct and personal services to school children in the form of instruction
related to the school district's educational course of study and who is paid
from the maintenance and operation section of the budget.

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

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

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

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

10. "Full-time equivalent certified teacher" or "FTE certified teacher"
means for a certified teacher the following:
    (a) If employed full time as defined in section 15-501, 1.00.
    (b) If employed less than full time, multiply 1.00 by the percentage
of a full school day, or its equivalent, or a full class load, or its
equivalent, for which the teacher is employed as determined by the governing
board.

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

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

13. "HI" means programs for pupils with hearing impairment.
14. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. Homebound or hospitalized includes a student who is unable to attend school for a period of less than three months due to a pregnancy if a competent medical doctor, after an examination, certifies that the student is unable to attend regular classes due to risk to the pregnancy or to the student's health.

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


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

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

19. "MOMR" "MOID" means programs for pupils with moderate mental retardation INTELLECTUAL DISABILITY.

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


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

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

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

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

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

(b) Contains no school which THAT is fewer than thirty miles by the most reasonable route from another school, or, if road conditions and terrain
make the driving slow or hazardous, fifteen miles from another school which teaches one or more of the same grades and is operated by another school district in this state.

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

26. "Small school district" means a school district which meets all of the following:
   (a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.
   (b) Contains at least one school which is fewer than thirty miles by the most reasonable route from another school which teaches one or more of the same grades and is operated by another school district in this state.
   (c) Is designated as a small school district by the superintendent of public instruction.

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

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

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


Sec. 9. Repeal
Section 15-901, Arizona Revised Statutes, as amended by Laws 2010, chapter 318, section 12, is repealed.

Sec. 10. Section 15-943, Arizona Revised Statutes, is amended to read:

15-943. Base support level
The base support level for each school district shall be computed as follows:
   1. The following support level weights shall be used in paragraph 2, subdivision (a) of this section for the following school districts:
      (a) For school districts whose student count in kindergarten programs and grades one through eight is classified in column 1 of this subdivision, the support level weight for kindergarten programs and grades one through eight is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

<table>
<thead>
<tr>
<th>Column 1: Student Count</th>
<th>Column 2: Support Level Weight For Small Isolated School Districts</th>
<th>Column 3: Support Level Weight For Small Isolated School Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-99</td>
<td>1.559</td>
<td>1.399</td>
</tr>
<tr>
<td>100-499</td>
<td>1.358 + [0.0005 x (500 - student count)]</td>
<td>1.278 + [0.0003 x (500 - student count)]</td>
</tr>
<tr>
<td>500-599</td>
<td>1.158 + [0.002 x (600 - student count)]</td>
<td>1.158 + [0.0012 x (600 - student count)]</td>
</tr>
</tbody>
</table>
(b) For school districts whose student count in grades nine through twelve is classified in column 1 of this subdivision, the support level weight for grades nine through twelve is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

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

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

(a) Support Level Student Weighted Student

<table>
<thead>
<tr>
<th>Grade Base</th>
<th>Group A</th>
<th>Weight</th>
<th>Student Count</th>
<th>Student Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>PSD</td>
<td>1.000</td>
<td>+ 0.450</td>
<td>1.450 x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>K-8</td>
<td>1.000</td>
<td>+ 0.158</td>
<td>1.158 x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>9-12</td>
<td>1.163</td>
<td>+ 0.105</td>
<td>1.268 x _______ = _______</td>
<td></td>
</tr>
</tbody>
</table>

Subtotal A

(b) Support Level Student Weighted Student

<table>
<thead>
<tr>
<th>Category</th>
<th>Weight</th>
<th>Student Count</th>
<th>Student Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>HI</td>
<td>4.771</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>K-3</td>
<td>0.060</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>ELL</td>
<td>0.115</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>MD-R, A-R and SID-R</td>
<td>6.024</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>MD-SC, A-SC and SID-SC</td>
<td>5.833</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>MD-SSI</td>
<td>7.947</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>OI-R</td>
<td>3.158</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>OI-SC</td>
<td>6.773</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>P-SD</td>
<td>3.595</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>DD, ED, MIMR MIID, SLD, SLI and OHI</td>
<td>0.003</td>
<td>x _______ = _______</td>
<td></td>
</tr>
<tr>
<td>ED-P</td>
<td>4.822</td>
<td>x _______ = _______</td>
<td></td>
</tr>
</tbody>
</table>
VI  4.806 x _______ = _______

Subtotal  B  ____________

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

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

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

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

15-948. Adjustment for growth in student count

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 12. Section 15-976, Arizona Revised Statutes, is amended to read:

15-976. Assistance for school districts for children whose parents are employed by certain state institutions; expenditure limitation

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

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

2. For children other than group B children with disabilities, the costs per student count as prescribed in section 15-824, subsection G minus...
the amount generated by the equalization base as determined in section
15-971, subsection A for those pupils, except that in no case shall the
 tuition for any pupil SHALL NOT exceed an amount equal to seven thousand
dollars minus the amount generated by the equalization base as determined in
section 15-971, subsection A.
B. Claims for such payments shall be made by the school districts
through the county school superintendent to the superintendent of public
instruction.
C. The total amount of state monies that may be spent in any fiscal
year by the superintendent of public instruction pursuant to subsection A of
this section shall not exceed the amount appropriated or authorized by
section 35-173 for that purpose. This section shall not be construed to
impose a duty on an officer, agent or employee of this state to discharge a
responsibility or to create any right in a person or group if the discharge
or right would require an expenditure of state monies in excess of the
expenditure authorized by legislative appropriation for that specific
purpose.
Sec. 13. Section 20-826, Arizona Revised Statutes, is amended to read:
20-826. Subscription contracts; definitions
A. A contract between a corporation and its subscribers shall not be
issued unless the form of such contract is approved in writing by the
director.
B. Each contract shall plainly state the services to which the
subscriber is entitled and those to which the subscriber is not entitled
under the plan, and shall constitute a direct obligation of the providers of
services with which the corporation has contracted for hospital, medical,
dental or optometric services.
C. Each contract, except for dental services or optometric services,
shall be so written that the corporation shall pay benefits for each of the
following:
1. Performance of any surgical service that is covered by the terms of
such contract, regardless of the place of service.
2. Any home health services that are performed by a licensed home
health agency and that a physician has prescribed in lieu of hospital
services, as defined by the director, providing the hospital services would
have been covered.
3. Any diagnostic service that a physician has performed outside a
hospital in lieu of inpatient service, providing the inpatient service would
have been covered.
4. Any service performed in a hospital's outpatient department or in a
freestanding surgical facility, if such service would have been covered if
performed as an inpatient service.
D. Each contract for dental or optometric services shall be so written
that the corporation shall pay benefits for contracted dental or optometric
services provided by dentists or optometrists.
E. Any contract, except accidental death and dismemberment, applied for that provides family coverage, as to such coverage of family members, shall also provide that the benefits applicable for children shall be payable with respect to a newly born child of the insured from the instant of such child's birth, to a child adopted by the insured, regardless of the age at which the child was adopted, and to a child who has been placed for adoption with the insured and for whom the application and approval procedures for adoption pursuant to section 8-105 or 8-108 have been completed to the same extent that such coverage applies to other members of the family. The coverage for newly born or adopted children or children placed for adoption shall include coverage of injury or sickness, including necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the contract may require that notification of birth, adoption or adoption placement of the child and payment of the required premium must be furnished to the insurer within thirty-one days after the date of birth, adoption or adoption placement in order to have the coverage continue beyond the thirty-one day period.

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

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

H. A contract that provides coverage for surgical services for a mastectomy shall also provide coverage incidental to the patient's covered mastectomy for surgical services for reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other breast
to produce a symmetrical appearance, prostheses, treatment of physical
complications for all stages of the mastectomy, including lymphedemas, and at
least two external postoperative prostheses subject to all of the terms and
conditions of the policy.

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

1. A baseline mammogram for a woman from age thirty-five to
thirty-nine.
2. A mammogram for a woman from age forty to forty-nine every two
years or more frequently based on the recommendation of the woman's
physician.
3. A mammogram every year for a woman fifty years of age and over.

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

1. The child is adopted within one year of birth.
2. The insured is legally obligated to pay the costs of birth.
3. All preexisting conditions and other limitations have been met by
the insured.
4. The insured has notified the insurer of the insured's acceptability
to adopt children pursuant to section 8-105, within sixty days after such
approval or within sixty days after a change in insurance policies, plans or
companies.

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

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

M. The director shall adopt emergency rules applicable to persons who
are leaving active service in the armed forces of the United States and
returning to civilian status including:
1. Conditions of eligibility.
2. Coverage of dependents.
3. Preexisting conditions.
4. Termination of insurance.
5. Probationary periods.
7. Exceptions.
8. Reductions.
10. Requirements for replacement.
11. Any other condition of subscription contracts.

N. Any contract that provides maternity benefits shall not restrict benefits for any hospital length of stay in connection with childbirth for the mother or the newborn child to less than forty-eight hours following a normal vaginal delivery or ninety-six hours following a cesarean section. The contract shall not require the provider to obtain authorization from the corporation for prescribing the minimum length of stay required by this subsection. The contract may provide that an attending provider in consultation with the mother may discharge the mother or the newborn child before the expiration of the minimum length of stay required by this subsection. The corporation shall not:

1. Deny the mother or the newborn child eligibility or continued eligibility to enroll or to renew coverage under the terms of the contract solely for the purpose of avoiding the requirements of this subsection.
2. Provide monetary payments or rebates to mothers to encourage those mothers to accept less than the minimum protections available pursuant to this subsection.
3. Penalize or otherwise reduce or limit the reimbursement of an attending provider because that provider provided care to any insured under the contract in accordance with this subsection.
4. Provide monetary or other incentives to an attending provider to induce that provider to provide care to an insured under the contract in a manner that is inconsistent with this subsection.
5. Except as described in subsection O of this section, restrict benefits for any portion of a period within the minimum length of stay in a manner that is less favorable than the benefits provided for any preceding portion of that stay.

O. Nothing in subsection N of this section:

1. Requires a mother to give birth in a hospital or to stay in the hospital for a fixed period of time following the birth of the child.
2. Prevents a corporation from imposing deductibles, coinsurance or other cost sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or a newborn child under the contract, except that any coinsurance or other cost sharing for any portion of a period within a hospital length of stay required pursuant to subsection
N of this section shall not be greater than the coinsurance or cost sharing for any preceding portion of that stay.

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

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

2. Blood glucose monitors for the legally blind.
3. Test strips for glucose monitors and visual reading and urine testing strips.
4. Insulin preparations and glucagon.
5. Insulin cartridges.
6. Drawing up devices and monitors for the visually impaired.
7. Injection aids.
8. Insulin cartridges for the legally blind.
9. Syringes and lancets, including automatic lancing devices.
10. Prescribed oral agents for controlling blood sugar that are included on the plan formulary.
11. To the extent coverage is required under medicare, podiatric appliances for prevention of complications associated with diabetes.
12. Any other device, medication, equipment or supply for which coverage is required under medicare from and after January 1, 1999. The coverage required in this paragraph is effective six months after the coverage is required under medicare.

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

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

1. Require coverage of any prescription drug used in the treatment of a type of cancer if the United States food and drug administration has
determined that the prescription drug is contraindicated for that type of
cancer.

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

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

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

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

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

5. For the purposes of subsection R of this section:

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

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

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

(c) Thomson Micromedex compendium DrugDex.

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

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

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

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

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

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

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

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

V. The metabolic disorders triggering medical foods coverage under this section shall:
  1. Be part of the newborn screening program prescribed in section 36-694.
  2. Involve amino acid, carbohydrate or fat metabolism.
  3. Have medically standard methods of diagnosis, treatment and monitoring, including quantification of metabolites in blood, urine or spinal fluid or enzyme or DNA confirmation in tissues.
  4. Require specially processed or treated medical foods that are generally available only under the supervision and direction of a physician who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15, that must be consumed throughout life and without which the person may suffer serious mental or physical impairment.
W. Medical foods eligible for coverage under this section shall be prescribed or ordered under the supervision of a physician licensed pursuant to title 32, chapter 13 or 17 as medically necessary for the therapeutic treatment of an inherited metabolic disease.

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

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

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

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

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

Z. Notwithstanding subsection Y of this section, a religious employer whose religious tenets prohibit the use of prescribed contraceptive methods may require that the corporation provide a contract without coverage for all United States food and drug administration approved contraceptive methods. A religious employer shall submit a written affidavit to the corporation stating that it is a religious employer. On receipt of the affidavit, the corporation shall issue to the religious employer a contract that excludes coverage of prescription contraceptive methods. The corporation shall retain the affidavit for the duration of the contract and any renewals of the contract. Before enrollment in the plan, every religious employer that invokes this exemption shall provide prospective subscribers written notice that the religious employer refuses to cover all United States food and drug
administration approved contraceptive methods for religious reasons. This subsection shall not exclude coverage for prescription contraceptive methods ordered by a health care provider with prescriptive authority for medical indications other than to prevent an unintended pregnancy. A corporation may require the subscriber to first pay for the prescription and then submit a claim to the corporation along with evidence that the prescription is for a noncontraceptive purpose. A corporation may charge an administrative fee for handling these claims. A religious employer shall not discriminate against an employee who independently chooses to obtain insurance coverage or prescriptions for contraceptives from another source.

AA. For the purposes of:

1. This section:
   (a) "Inherited metabolic disorder" means a disease caused by an inherited abnormality of body chemistry and includes a disease tested under the newborn screening program prescribed in section 36-694.
   (b) "Medical foods" means modified low protein foods and metabolic formula.
   (c) "Metabolic formula" means foods that are all of the following:
      (i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.
      (ii) Processed or formulated to be deficient in one or more of the nutrients present in typical foodstuffs.
      (iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.
      (iv) Essential to a person’s optimal growth, health and metabolic homeostasis.
   (d) "Modified low protein foods" means foods that are all of the following:
      (i) Formulated to be consumed or administered enterally under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17.
      (ii) Processed or formulated to contain less than one gram of protein per unit of serving, but does not include a natural food that is naturally low in protein.
      (iii) Administered for the medical and nutritional management of a person who has limited capacity to metabolize foodstuffs or certain nutrients contained in the foodstuffs or who has other specific nutrient requirements as established by medical evaluation.
      (iv) Essential to a person’s optimal growth, health and metabolic homeostasis.

2. Subsection E of this section, the term "child", for purposes of initial coverage of an adopted child or a child placed for adoption but not
for purposes of termination of coverage of such child, means a person under the age of eighteen years OF AGE.

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

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

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

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

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

20-1342.01. Children with disabilities
An individual hospital or medical expense insurance policy, delivered or issued for delivery in this state more than one hundred twenty days after the effective date of this section, which AUGUST 27, 1977 THAT provides that coverage of a dependent child shall terminate upon ON attainment of the limiting age for dependent children specified in the policy, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such THAT child while the child is and continues to be both incapable of self-sustaining employment by reason of mental retardation INTELLECTUAL DISABILITY or physical handicap and chiefly dependent upon the policyholder for support and maintenance. Proof of such incapacity and dependency shall be furnished to the insurer by the policyholder within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

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

20-1407. Children with disabilities
A group hospital or medical expense insurance policy delivered or issued for delivery in this state more than one hundred twenty days after the effective date of this section, which AUGUST 27, 1977 THAT provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon ON attainment of the limiting age for dependent children specified in the policy, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such THAT child while the child is and continues to be both incapable of self-sustaining employment by reason of mental retardation INTELLECTUAL DISABILITY or physical handicap and chiefly dependent upon the employee or member for support and maintenance. Proof of such incapacity and dependency shall be furnished to the insurer by the employee or member within thirty-one days of the child's attainment of the limiting age and subsequently as may be
required by the insurer, but not more frequently than annually after the
two-year period following the child's attainment of the limiting age.

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

23-503.01. Coordination of vocational rehabilitation services
The department shall coordinate its provision of vocational
rehabilitation services to mentally retarded INTELLECTUALLY DISABLED persons
with its provision of mental retardation INTELLECTUAL DISABILITY services to
such persons, including the areas of evaluation of applicants for either type
of services and the development of program and rehabilitation plans for
mentally retarded INTELLECTUALLY DISABLED persons.

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

36-104. Powers and duties
This section is not to be construed as a statement of the department's
organization. This section is intended to be a statement of powers and
duties in addition to the powers and duties granted by section 36-103. The
director shall:

1. Administer the following services:
   (a) Administrative services, which shall include, but not be limited
to, AT A MINIMUM the functions of accounting, personnel, standards
certification, electronic data processing, vital statistics and the
development, operation and maintenance of buildings and grounds utilized by
the department.
   (b) Public health support services, which shall include, but not be
limited to AT A MINIMUM:
      (i) Consumer health protection programs, to THAT include, but not be
limited to, AT LEAST the functions of community water supplies, general
sanitation, vector control and food and drugs.
      (ii) Epidemiology and disease control programs, to THAT include, but
not be limited to, AT LEAST the functions of chronic disease, accident and
injury control, communicable diseases, tuberculosis, venereal disease and
others.
      (iii) Laboratory services programs.
   (iv) Health education and training programs.
   (v) Disposition of human bodies programs.
   (c) Community health services, which shall include, but not be limited
   to AT A MINIMUM:
      (i) Medical services programs, to THAT include, but not be limited to,
AT LEAST the functions of maternal and child health, preschool health
screening, family planning, public health nursing, premature and newborn
program, immunizations, nutrition, dental care prevention and migrant
health.
      (ii) Dependency health care services programs, to THAT include, but
not be limited to, AT LEAST the functions of need determination, availability
of health resources to medically dependent INDIVIDUALS, quality control, utilization control and industry monitoring.
(iii) Crippled PHYSICALLY DISABLED children's services programs.
(iv) Programs for the prevention and early detection of mental retardation AN INTELLECTUAL DISABILITY.
(d) Program planning, which shall include but not be limited to AT LEAST THE FOLLOWING:
(i) An organizational unit for comprehensive health planning programs.
(ii) Program coordination, evaluation and development.
(iii) Need determination programs.
(iv) Health information programs.
2. Include and administer, within the office of the director, staff services, which shall include but not be limited to AT A MINIMUM budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.
3. Make rules and regulations for the organization and proper and efficient operation of the department.
4. Determine when a health care emergency or medical emergency situation exists or occurs within the state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such A situation is determined to exist, the director shall immediately report such THAT situation to the legislature and the governor. Such THE report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.
5. Provide a system of unified and coordinated health services and programs between the state and county governmental health units at all levels of government.
6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
7. Make contracts and incur obligations within the general scope of the DEPARTMENT'S activities and operations subject to the availability of funds.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of THE DEPARTMENT'S duties subject to the departmental rules and regulations on the confidentiality of information.
10. Establish and maintain separate financial accounts as required by federal law or regulations.
11. Advise with and make recommendations to the governor and the legislature on all matters concerning THE DEPARTMENT'S objectives.
12. Take appropriate steps to reduce or contain costs in the field of health services.

13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.

14. Encourage an effective use of available federal resources in this state.

15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.

16. Promote the effective utilization of health manpower and health facilities which provide health care for the citizens of this state.

17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.

18. Certificate training on the nature of sudden infant death syndrome for use by professional firefighters and certified emergency medical technicians as part of their basic and continuing training requirement.

19. Certificate training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.

20. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.

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

22. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.

23. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, AND that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director may accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education.
paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are no lapsing and do not revert to the state general fund at the close of the fiscal year.

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

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

Sec. 18. Section 36-137, Arizona Revised Statutes, is amended to read:

36-137. Annual report of director

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

1. The condition of public health in the state.
2. The activities of the department during the preceding fiscal year.
3. The work done in each county.
4. The character and extent of all diseases reported.
5. The expenditures of the department and of each county or district health department.
7. The financial statement of the affairs of the Arizona state hospital.

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

Sec. 19. Section 36-203, Arizona Revised Statutes, is amended to read:

36-203. Intellectually disabled persons assigned to state hospital; duties of division

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

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

C. The division, upon request of a parent or guardian of a mentally retarded minor WITH AN INTELLECTUAL DISABILITY or the guardian of a mentally retarded adult WITH AN INTELLECTUAL DISABILITY or upon the request of a mentally retarded adult WITH AN INTELLECTUAL DISABILITY, shall notify the department of economic security prior to the release of such person from the state hospital and request that the department of economic security provide placement evaluation and case management services for such person. Such evaluation shall consider the mentally retarded person's needs for housing, day programs, employment training, employment and support services.

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

Sec. 20. Section 36-261, Arizona Revised Statutes, is amended to read:

36-261. Powers and duties; expenditure limitation

A. The department of health services shall:

1. Employ a full-time or part-time medical director and a full-time or part-time administrator for children's rehabilitative services who shall have such titles and duties as shall be fixed by the director. Compensation of
the medical director and the administrator shall be as determined pursuant to
section 38-611.

2. Supervise, control and establish policies for children's
rehabilitative services.

3. Adopt all rules and policies for the operation of a children's
rehabilitative services program.

4. Employ such medical and other staff as may be needed, including
resident physicians, whose compensation shall be as determined pursuant to
section 38-611.

5. Establish and administer a program of service for children who are
crippled CHRONICALLY ILL OR PHYSICALLY DISABLED or who are suffering from
conditions which THAT lead to crippling A CHRONIC ILLNESS OR A PHYSICAL
DISABILITY. The program shall provide for:

(a) Development, extension and improvement of services for locating
such children.

(b) Furnishing of medical, surgical, corrective and other services and
care.

(c) Furnishing of facilities for diagnosis, hospitalization and
aftercare.

(d) Supervision of the administration of services in the program which
THAT are not administered directly by the department.

(e) The extension and improvement of any services included in the
program of services for chronically ill or physically disabled children as
required by this section.

(f) Cooperation with medical, health, nursing and welfare groups and
organizations and with any agency of the state charged with administration of
laws providing for vocational rehabilitation of physically handicapped
children.

(g) Cooperation with the federal government through its appropriate
agency or instrumentality in developing, extending and improving services for
chronically ill or physically disabled children.

(h) Receipt and expenditure of funds made available to the department
for services to chronically ill or physically disabled children by the
federal government, the state or its political subdivisions or from other
sources, excluding monies received from parents or guardians for the care of
children.

(i) Carrying on research and compiling statistics.

(j) Making necessary expenditures in connection with the duties
provided in this section.

(k) Establishing and maintaining safeguards relating to the
confidential aspect of medical records.

(l) Acceptance and use of federal funds for children’s rehabilitative
services at the discretion of the department and subject to any limitations
imposed by the annual state appropriation bill.
(m) Such other duties and responsibilities found necessary for the effective operation of a program for chronically ill or physically disabled children.

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

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

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

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

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

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

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

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

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

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

6. An invitation for bids, a request for proposals or ANY other solicitation may be cancelled or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation if it is in the best interests of this state. The reasons for the cancellation or rejection
shall be made part of the contract file. If the amount appropriated for
services provided pursuant to this section is insufficient to pay for the
scope of services as bid, the director may reduce the scope of services to
reflect the amount appropriated or may cancel any invitation for bids,
requests for proposals or other solicitation and contract directly for such
services. Such reductions or suspensions shall not apply to the continuity
of care for persons already receiving such THESE services. Any decision to
reduce services shall be made independently from any other modification of
services.

7. The provisions of Title 41, chapter 23 shall apply to the
procurement process set forth in this section to the extent that they are IT
IS not inconsistent with the provisions of this section. The director may
vary the bid format and the terms of the request for proposal each bid term.
D. In awarding contracts for inpatient and outpatient treatment
services under this section, the department shall use the following criteria
in addition to other consistent criteria:
1. Cost to this state.
2. The treatment facility's demonstrated experience in and
qualifications for providing pediatric services.
E. If the provision of any services under this section requires
compliance with chapter 4, article 2 of this title, the contractor shall
comply prior to BEFORE commencement of services under this section.
F. The department may, subject to appropriation therefor, MAY provide
or arrange for the provision of health services and supervisory care for
child patients of other state agencies.
G. The department may, through the children's rehabilitative services
division, MAY establish and administer a program for children with sickle
cell anemia, as provided for in section 36-797.43.
H. The department may, through the children's rehabilitative services
division, MAY establish and administer a program for adults with sickle cell
anemia, as provided for in section 36-797.44.
I. The director may provide for the education of inpatients at any
facility which THAT contracts with the director to provide care and treatment
of chronically ill or physically disabled children. The director shall
include in his THE annual proposed budget a request for sufficient monies to
finance the education of inpatients as authorized in this subsection.
J. The total amount of state monies that may be spent in any fiscal
year by the department of health services for children's rehabilitative
services shall not exceed the amount appropriated or authorized by section
35-173 for that purpose. This section shall not be construed to impose a
duty on an officer, agent or employee of this state to discharge a
responsibility or to create any right in a person or group if the discharge
or right would require an expenditure of state monies in excess of the
expenditure authorized by legislative appropriation for that specific
purpose.
Sec. 21. Section 36-501, Arizona Revised Statutes, is amended to read:

36-501. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

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

6. "Danger to self":
   (a) Means behavior that, as a result of a mental disorder:
      (i) Constitutes a danger of inflicting serious physical harm on oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out.
      (ii) Without hospitalization will result in serious physical harm or serious illness to the person.
   (b) Does not include behavior that establishes only the condition of gravely disabled.

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

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

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

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

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

12. "Evaluation" means a professional multidisciplinary analysis based on data describing the person's identity, biography and medical, psychological and social conditions carried out by a group of persons consisting of not less than the following:
   (a) Two licensed physicians, who shall be qualified psychiatrists, if possible, or at least experienced in psychiatric matters, and who shall
examine and report their findings independently. The person against whom a petition has been filed shall be notified that the person may select one of the physicians. A psychiatric resident in a training program approved by the American medical association or by the American osteopathic association may examine the person in place of one of the psychiatrists if the resident is supervised in the examination and preparation of the affidavit and testimony in court by a qualified psychiatrist appointed to assist in the resident's training, and if the supervising psychiatrist is available for discussion with the attorneys for all parties and for court appearance and testimony if requested by the court or any of the attorneys.

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

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

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

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

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

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

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

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

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

21. "Informed consent" means a voluntary decision following presentation of all facts necessary to form the basis of an intelligent consent by the patient or guardian with no minimizing of known dangers of any procedures.
22. "Least restrictive treatment alternative" means the treatment plan and setting that infringe in the least possible degree with the patient's right to liberty and that are consistent with providing needed treatment in a safe and humane manner.

23. "Licensed physician" means any medical doctor or doctor of osteopathy who is either:
   (a) Licensed in this state.
   (b) A full-time hospital physician licensed in another state and serving on the staff of a hospital operated or licensed by the United States government.

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

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

26. "Mental disorder" means a substantial disorder of the person's emotional processes, thought, cognition or memory. Mental disorder is distinguished from:
   (a) Conditions that are primarily those of drug abuse, alcoholism or INTELLECTUAL DISABILITY, unless, in addition to one or more of these conditions, the person has a mental disorder.
   (b) The declining mental abilities that directly accompany impending death.
   (c) Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder.

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

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

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

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

31. "Patient" means any person undergoing examination, evaluation or behavioral or mental health treatment under this chapter.
32. "Peace officers" means sheriffs of counties, constables, marshals and policemen of cities and towns.

33. "Persistently or acutely disabled" means a severe mental disorder that meets all the following criteria:
   (a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.
   (b) Substantially impairs the person's capacity to make an informed decision regarding treatment, and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.
   (c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

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

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

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

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

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

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

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

41. "Records" means all communications that are recorded in any form or medium and that relate to patient examination, evaluation or behavioral or
mental health treatment. Records include medical records that are prepared
by a health care provider or other providers. Records do not include:
(a) Materials that are prepared in connection with utilization review,
peer review or quality assurance activities, including records that a health
care provider prepares pursuant to section 36-441, 36-445, 36-2402 or
36-2917.
(b) Recorded telephone and radio calls to and from a publicly operated
emergency dispatch office relating to requests for emergency services or
reports of suspected criminal activity.
Sec. 22. Section 36-551, Arizona Revised Statutes, is amended to read:
36-551. Definitions
In this chapter, unless the context otherwise requires:
1. "Adaptive behavior" means the effectiveness or degree to which the
individual meets the standards of personal independence and social
responsibility expected of the person's age and cultural group.
2. "Adult developmental home" means a residential setting in a family
home in which the care, physical custody and supervision of the adult client
are the responsibility, under a twenty-four hour care model, of the licensee
who, in that capacity, is not an employee of the division or of a service
provider and the home provides the following services for a group of siblings
or up to three adults with developmental disabilities:
(a) Room and board.
(b) Habilitation.
(c) Appropriate personal care.
(d) Appropriate supervision.
3. "Adult household member" means a person who is at least eighteen
years of age and who resides in an adult developmental home, child
developmental foster home, secure setting or home and community based service
setting for at least thirty days or who resides in the household throughout
the year for more than a cumulative total of thirty days.
4. "Advisory council" means the developmental disabilities advisory
council.
5. "Arizona training program facility" means a state operated
institution for developmentally disabled clients of the department.
6. "Attributable to cognitive disability, epilepsy, cerebral palsy or
autism" means that there is a causal relationship between the presence of an
impairing condition and the developmental disability.
7. "Autism" means a condition characterized by severe disorders in communication and behavior resulting in limited ability to communicate, understand, learn and participate in social relationships.

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

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

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

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

(a) Room and board.
(b) Habilitation.
(c) Appropriate personal care.
(d) Appropriate supervision.

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

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

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

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

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

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

18. "Developmental disability" means either a strongly demonstrated potential that a child under the age of six years OF AGE is developmentally disabled or will become developmentally disabled, as determined by a test performed pursuant to section 36-694 or by other appropriate tests, or a severe, chronic disability that:
   (a) Is attributable to cognitive disability, cerebral palsy, epilepsy or autism.
   (b) Is manifested before age eighteen.
   (c) Is likely to continue indefinitely.
   (d) Results in substantial functional limitations in three or more of the following areas of major life activity:
      (i) Self-care.
      (ii) Receptive and expressive language.
      (iii) Learning.
      (iv) Mobility.
      (v) Self-direction.
      (vi) Capacity for independent living.
      (vii) Economic self-sufficiency.
   (e) Reflects the need for a combination and sequence of individually planned or coordinated special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration.

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

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

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

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

23. "Guardian" means the person who, under court order, is appointed to fulfill the powers and duties prescribed in section 14-5312. Guardian does not include a guardian pursuant to section 14-5312.01.
24. "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills that enable the person to cope more effectively with personal and environmental demands and to raise the level of the person's physical, mental and social efficiency.

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

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

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

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

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

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

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

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

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

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

35. "Respite services" means services that provide a short-term or long-term interval of rest or relief to the care provider of a developmentally disabled person.
36. "Responsible person" means the parent or guardian of a developmentally disabled minor, the guardian of a developmentally disabled adult or a developmentally disabled adult who is a client or an applicant for whom no guardian has been appointed.

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

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

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

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

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

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

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

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

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

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

C. The division shall notify the department of health services of:
   1. Service providers who enter into contracts with the division for group homes.
   2. Any violation of health and safety standards observed during monitoring visits.
   3. The department of health services shall immediately notify the division:
      1. When a group home license has been denied, suspended or revoked.
      2. Of any other licensing action taken on a group home by the department of health services.
      3. Of substantiated complaints regarding health and safety.
E. The division shall ensure that state operated residential settings that are owned or leased facilities operated by the division meet the same standards as group homes unless they are certified as intermediate care facilities for PERSONS WITH AN INTELLECTUAL DISABILITY PURSUANT to 42 Code of Federal Regulations section 483.400.

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

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

Sec. 24. Section 36-712, Arizona Revised Statutes, is amended to read:

36-712. Administration by the department
The department shall:
1. Own and control all personal property or interest therein which IN THAT PROPERTY THAT is devoted and used by the tuberculosis control officer for purposes of this article.
2. Be the official custodian of all files and records which THAT belong to or were kept at the Arizona state sanatorium prior to BEFORE the sanatorium being WAS converted to a hospital for crippled children WITH A PHYSICAL DISABILITY.
3. Be the official state agency to receive for deposit in an appropriate account of the public health fund and administer and expend any funds granted, contributed or made available by the federal government, appropriated by the state or received from other sources for the treatment, prevention or control of tuberculosis. Such funds are subject to the provisions of title 35, chapter 1, article 4, and periodic review by the joint legislative budget committee.

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

36-2936. Preadmission screening programs; functional tests; screening review
A. The director shall adopt rules establishing a uniform statewide preadmission screening program to determine if a person who has met the eligibility criteria prescribed in section 36-2934 is eligible for institutional services pursuant to this article. To be eligible for institutional services or home and community based services as defined in section 36-2931, a person shall have a nonpsychiatric medical condition or have a developmental disability as defined in section 36-551 that, by itself or in combination with other medical conditions, necessitates the level of
care which THAT is provided in a nursing facility or intermediate care facility for the mentally retarded. These rules shall establish a uniform preadmission screening instrument that assesses the functional, medical, nursing, social and developmental needs of the applicant.

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

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

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

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

F. The administration or its designee shall complete the preadmission screening under subsection A of this section within eight days, excluding
Saturdays and holidays, and excluding the time period allowed to determine eligibility pursuant to section 36-2934.

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

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

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

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

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

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

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

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

36-2939. Long-term care system services
A. The following services shall be provided by the program contractors to members determined to need institutional services pursuant to this article:
  1. Nursing facility services other than services in an institution for tuberculosis or mental disease.
  2. Notwithstanding any other law, behavioral health services if these services are not duplicative of long-term care services provided as of January 30, 1993 under this subsection and are authorized by the program contractor through the long-term care case management system. If the administration is the program contractor, the administration may authorize these services.
  3. Hospice services. For the purposes of this paragraph, “hospice” means a program of palliative and supportive care for terminally ill members and their families or caregivers.
  4. Case management services as provided in section 36-2938.
  5. Health and medical services as provided in section 36-2907.
B. In addition to the services prescribed in subsection A of this section, the department, as a program contractor, shall provide the following services if appropriate to members who are defined as developmentally disabled pursuant to section 36-551 and are determined to need institutional services pursuant to this article:
  1. Intermediate care facility for mental retardation services for a member who has a developmental disability as defined in section 36-551. For purposes of this article, such a facility shall meet all federally approved standards and may only include the Arizona training program facilities, a state owned and operated service center, state owned or operated community residential settings or existing licensed facilities operated by this state or under contract with the department on or before July 1, 1988.
2. Home and community based services which may be provided in a
member's home or an alternative residential setting as prescribed in section
36-591 or other behavioral health alternative residential facilities licensed
by the department of health services and approved by the director of the
Arizona health care cost containment system administration and which may
include:

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

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

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

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

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

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

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

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

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

C. In addition to services prescribed in subsection A of this section,
home and community based services may be provided in a member's home, in an
adult foster care home as prescribed in section 36-401, in an assisted living
home or assisted living center as defined in section 36-401 or in a level one
or level two behavioral health alternative residential facility approved by
the director by program contractors to all members who are not defined as
developmentally disabled pursuant to section 36-551 and are determined to
need institutional services pursuant to this article. Members residing in an
assisted living center must be provided the choice of single occupancy. The
director may also approve other licensed residential facilities as
appropriate on a case by case basis for traumatic brain injured members.
Home and community based services may include the following:

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

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

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

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

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

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

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

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

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

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

D. The amount of money expended by program contractors on home and
community based services pursuant to subsection C of this section shall be
limited by the director in accordance with the federal monies made available
to this state for home and community based services pursuant to subsection C of this section. The director shall establish methods for the allocation of monies for home and community based services to program contractors and shall monitor expenditures on home and community based services by program contractors.

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

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

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

Sec. 27. Section 41-173, Arizona Revised Statutes, is amended to read:

41-173. Special olympics tax refund fund

A. The special olympics tax refund fund is established consisting of contributions to the special olympics Arizona as a corporation from income tax refunds collected pursuant to section 43-614, other unrestricted private gifts and grants and investment earnings. No public monies may be appropriated to or designated for this fund.
B. The fund shall be administered by the department of revenue. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

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

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

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

41-1954. Powers and duties

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

1. Administer the following services:

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

   (b) Individual and family services, which shall include a section on aging, services to children, youth and adults and other related functions in furtherance of social service programs under the social security act, as amended, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, the older Americans act, as amended, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.
(c) Income maintenance services, which shall include categorical assistance programs, special services unit, child support collection services, establishment of paternity services, maintenance and operation of a state case registry of child support orders, a state directory of new hires, a support payment clearinghouse and other related functions in furtherance of programs under the social security act, title IV, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services, as amended, and other related federal acts and titles.

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

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

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

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

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

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

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

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

4. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
5. Employ, determine the conditions of employment and prescribe the
duties and powers of administrative, professional, technical, secretarial,
clerical and other persons as may be necessary in the performance of its
duties, contract for the services of outside advisors, consultants and aides
as may be reasonably necessary and reimburse department volunteers,
designated by the director, for expenses in transporting clients of the
department on official business.

6. Make contracts and incur obligations within the general scope of
its activities and operations subject to the availability of funds.

7. Contract with or assist other departments, agencies and
institutions of the state, local and federal governments in the furtherance
of its purposes, objectives and programs.

8. Be designated as the single state agency for the purposes of
administering and in furtherance of each federally supported state plan.

9. Accept and disburse grants, matching funds and direct payments from
public or private agencies for the conduct of programs which THAT are
consistent with the overall purposes and objectives of the department.

10. Provide information and advice on request by local, state and
federal agencies and by private citizens, business enterprises and community
organizations on matters within the scope of its duties subject to the
departmental rules on the confidentiality of information.

11. Establish and maintain separate financial accounts as required by
federal law or regulations.

12. Advise with and make recommendations to the governor and the
legislature on all matters concerning its objectives.

13. Have an official seal which THAT shall be judicially noticed.

14. Annually estimate the current year’s population of each county,
city and town in this state, using the periodic census conducted by the
United States department of commerce, or its successor agency, as the basis
for such estimates and deliver such estimates to the economic estimates
commission before December 15.

15. Estimate the population of any newly annexed areas of a political
subdivision as of July 1 of the fiscal year in which the annexation occurs
and deliver such estimates as promptly as is feasible after the annexation
occurs to the economic estimates commission.

16. Establish and maintain a statewide program of services for persons
who are both hearing impaired and visually impaired and coordinate
appropriate services with other agencies and organizations to avoid
duplication of these services and to increase efficiency. The department of
economic security shall enter into agreements for the utilization of the
personnel and facilities of the department of economic security, the
department of health services and other appropriate agencies and
organizations in providing these services.

17. Establish and charge fees for deposit in the department of economic
security prelayoff assistance services fund to employers who voluntarily
participate in the services of the department which THAT provide job service and retraining for persons who have been or are about to be laid off from employment. The department shall charge only those fees necessary to cover the costs of administering the job service and retraining services.

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

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

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

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

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

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

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

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

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

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

(c) Assisting in the coordination of the activities of federal, state and local governments and the private sector that prevent homelessness or provide assistance to homeless people.
(d) Assisting in obtaining and increasing funding from all appropriate sources to prevent homelessness or assist in alleviating homelessness.

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

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

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

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

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

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

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

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

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

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

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

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

D. Volunteers reimbursed for expenses pursuant to subsection A, paragraph 5 of this section are not eligible for workers' compensation under title 23, chapter 6.
E. In implementing the temporary assistance for needy families program pursuant to Public Law 104-193, the department shall provide for cash assistance to two parent families if both parents are able to work only upon documented participation by both parents in work activities described in title 46, chapter 2, article 5, except that payments may be made to families who do not meet the participation requirements if:

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

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

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

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

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

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

3. A hospital bill is considered received for purposes of paragraph 5 of this subsection upon initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:
   (a) An admission face sheet.
   (b) An itemized statement.
   (c) An admission history and physical.
   (d) A discharge summary or an interim summary if the claim is split.
   (e) An emergency record, if admission was through the emergency room.
   (f) Operative reports, if applicable.
   (g) A labor and delivery room report, if applicable.

4. The department shall require that the hospital pursue other third-party payors before submitting a claim to the department. Payment received by a hospital from the department pursuant to this subsection is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from
other third party payors or in situations covered by title 33, chapter 7, article 3.

5. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, if the department receives the claim directly from the hospital, the department shall pay a hospital's rate established according to this section subject to the following:
   (a) If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine per cent of the rate.
   (b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate.
   (c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

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

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

I. To assist in the location of persons or assets for the purpose of establishing paternity, establishing, modifying or enforcing child support obligations and other related functions, the department has access, including automated access if the records are maintained in an automated database, to records of state and local government agencies, including:
   1. Vital statistics, including records of marriage, birth and divorce.
   2. State and local tax and revenue records, including information on residence address, employer, income and assets.
   3. Records concerning real and titled personal property.
   4. Records of occupational and professional licenses.
   5. Records concerning the ownership and control of corporations, partnerships and other business entities.
   7. Records of agencies administering public assistance programs.
   8. Records of the motor vehicle division of the department of transportation.
   10. Any system used by a state agency to locate a person for motor vehicle or law enforcement purposes, including access to information contained in the Arizona criminal justice information system.
J. Notwithstanding subsection I of this section, the department or its agents shall not seek or obtain information on the assets of an individual unless paternity is presumed pursuant to section 25-814 or established.

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

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

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

2. Information on these persons held by financial institutions.

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

1. The obligor’s financial resources.

2. The cost of further enforcement action.

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

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

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

41-1981. Economic security council; special purpose councils

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

B. The governor shall appoint the members of the council. Membership shall correspond to pertinent federal regulations concerning advisory and planning councils or committees. The governor shall annually select the council chairman from the membership of the council.
C. The council should have eighteen members representing the public
and relevant professional, business, manufacturing, labor and educational
organizations.
D. Council members serve for a term of three years.
E. The director shall establish any special purpose councils as are
required by state or federal law, rules or regulations or determined to be
essential to the public's interest. Such councils shall include
a mental-retardation AN INTELLECTUAL DISABILITIES advisory council, a
rehabilitation advisory council, an income maintenance advisory council, an
apprenticeship advisory council, and an Indian affairs advisory council and
an advisory council on hunger. Membership qualifications shall be in
accordance with the appropriate law, rule or regulation. The director shall
appoint, with the approval of the governor, the members of each council after
consultation with members of the economic security council.
F. Appointment to fill a vacancy on the council or any special purpose
council resulting from other than expiration of term shall be for the
unexpired portion of a term only.
G. The department shall provide secretarial and staff support services
to the councils.
H. The members of the economic security council are eligible to
receive compensation pursuant to section 38-611. The members of any special
purpose council are not eligible to receive compensation but are eligible for
reimbursement of expenses pursuant to title 38, chapter 4, article 2.
Sec. 30. **Effect of change in terminology**
This act makes conforming changes to the Arizona Revised Statutes to
replace the term "mental retardation" and does not affect current coverage,
eligibility, rights or responsibilities as prescribed by law.
Sec. 31. **Effective date**
Section 11-251, Arizona Revised Statutes, as amended by Laws 2010,
chapter 238, section 1 and this act, is effective from and after September
30, 2011.