

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

# HOUSE BILL 2388

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

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4 chapter 195, section 82, is repealed.

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

7 41-2501. Applicability

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

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

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

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

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

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

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

43 H. The Arizona health care cost containment system administration is  
44 exempt from this chapter for provider contracts pursuant to section 36-2904,  
45 subsection A and contracts for goods and services, including program

1 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 AND  
2 CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36,  
3 CHAPTER 34. All other procurement, including contracts for the statewide  
4 administrator of the program pursuant to section 36-2903, subsection B, shall  
5 be as prescribed by this chapter.

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

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

16 K. The state transportation board and the director of the department  
17 of transportation are exempt from this chapter other than section 41-2586 for  
18 the procurement of construction or reconstruction, including engineering  
19 services, of transportation facilities or highway facilities and any other  
20 services that are directly related to land titles, appraisals, real property  
21 acquisition, relocation, property management or building facility design and  
22 construction for highway development and that are required pursuant to title  
23 28, chapter 20.

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

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

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

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

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

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

3 1. With a provider licensed or certified by an agency of this state to  
4 provide child day care services.

5 2. With area agencies on aging created pursuant to the older Americans  
6 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001  
7 through 3058ff).

8 3. For services pursuant to title 36, chapter 29, article 2.

9 4. With an eligible entity as defined by Public Law 105-285, section  
10 673(1)(A)(i), as amended, for designated community services block grant  
11 program monies and any other monies given to the eligible entity that  
12 accomplishes the purpose of Public Law 105-285, section 672.

13 R. The ~~department of health services~~ ARIZONA HEALTH CARE COST  
14 CONTAINMENT SYSTEM may not require that persons with whom it contracts follow  
15 this chapter for the purposes of subcontracts entered into for the provision  
16 of the following:

17 1. Mental health services pursuant to section 36-189, subsection B.

18 2. Services for the seriously mentally ill pursuant to title 36,  
19 chapter 5, article 10.

20 3. Drug and alcohol services pursuant to section 36-141.

21 ~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS  
22 WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS  
23 ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to  
24 title 36, chapter 30, article 1.

25 ~~5.~~ T. The department of health services is exempt from this chapter  
26 for contracts for services of physicians at the Arizona state hospital.

27 ~~6.~~ U. Contracts for goods and services approved by the board of  
28 trustees of the public safety personnel retirement system are exempt from  
29 this chapter.

30 ~~7.~~ V. The Arizona department of agriculture is exempt from this  
31 chapter with respect to contracts for private labor and equipment to effect  
32 cotton or cotton stubble plow-up pursuant to rules adopted under title 3,  
33 chapter 2, article 1.

34 ~~8.~~ W. The Arizona state parks board is exempt from this chapter for  
35 purchases of guest supplies and items for resale such as food, linens, gift  
36 items, sundries, furniture, china, glassware and utensils for the facilities  
37 located in the Tonto natural bridge state park.

38 ~~9.~~ X. The Arizona state parks board is exempt from this chapter for  
39 the purchase, production, promotion, distribution and sale of publications,  
40 souvenirs and sundry items obtained and produced for resale.

41 ~~10.~~ Y. The Arizona state schools for the deaf and the blind are exempt  
42 from this chapter for the purchase of textbooks and when purchasing products  
43 through a cooperative that is organized and operates in accordance with state  
44 law if such products are not available on a statewide contract and are

1 related to the operation of the schools or are products for which special  
2 discounts are offered for educational institutions.

3 ~~Y.~~ Z. Expenditures of monies in the morale, welfare and recreational  
4 fund established by section 26-153 are exempt from this chapter.

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

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

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

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

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

29 1. The division does not pay any public monies to an authorized third  
30 party.

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

32 3. The director has complied with the requirements prescribed in title  
33 28, chapter 13 in selecting an authorized third party.

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

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

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

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

1           ~~GG.~~ HH. The Arizona commerce authority is exempt from this chapter,  
2 except article 10 for the purpose of cooperative purchases. The authority  
3 shall adopt policies, procedures and practices, in consultation with the  
4 department of administration, that are similar to and based on the policies  
5 and procedures prescribed by this chapter for the purpose of increased public  
6 confidence, fair and equitable treatment of all persons engaged in the  
7 process and fostering broad competition while accomplishing flexibility to  
8 achieve the authority's statutory requirements. The authority shall make its  
9 policies, procedures and practices available to the public. The authority  
10 may exempt specific expenditures from the policies, procedures and practices.

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

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

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

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

20           ~~LL.~~ MM. This chapter does not apply to contracts for credit reporting  
21 services.

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

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

25           2. With an eligible entity as defined by Public Law 105-285, section  
26 673(1)(A)(i), as amended, for designated community services block grant  
27 program monies and any other monies given to the eligible entity that  
28 accomplishes the purpose of Public Law 105-285, section 672.

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

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

33           43-1021. Additions to Arizona gross income

34           In computing Arizona adjusted gross income, the following amounts shall  
35 be added to Arizona gross income:

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

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

43           3. The amount of interest income received on obligations of any state,  
44 territory or possession of the United States, or any political subdivision  
45 thereof, located outside the state of Arizona, reduced, for tax years

1 beginning from and after December 31, 1996, by the amount of any interest on  
2 indebtedness and other related expenses that were incurred or continued to  
3 purchase or carry those obligations and that are not otherwise deducted or  
4 subtracted in arriving at Arizona gross income.

5 4. The excess of a partner's share of partnership taxable income  
6 required to be included under chapter 14, article 2 of this title over the  
7 income required to be reported under section 702(a)(8) of the internal  
8 revenue code.

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

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

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

22 8. The amount by which the depreciation or amortization computed under  
23 the internal revenue code with respect to property for which a credit was  
24 taken under section 43-1080 exceeds the amount of depreciation or  
25 amortization computed pursuant to the internal revenue code on the Arizona  
26 adjusted basis of the property.

27 9. The amount by which the adjusted basis computed under the internal  
28 revenue code with respect to property for which a credit was claimed under  
29 section 43-1080 and that is sold or otherwise disposed of during the taxable  
30 year exceeds the adjusted basis of the property computed under section  
31 43-1080.

32 10. The amount by which the depreciation or amortization computed under  
33 the internal revenue code with respect to property for which a credit was  
34 taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
35 depreciation or amortization computed pursuant to the internal revenue code  
36 on the Arizona adjusted basis of the property.

37 11. The amount by which the adjusted basis computed under the internal  
38 revenue code with respect to property for which a credit was claimed under  
39 section 43-1074.02, 43-1081 or 43-1081.01 and that is sold or otherwise  
40 disposed of during the taxable year exceeds the adjusted basis of the  
41 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as  
42 applicable.

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

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

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

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

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

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

19           18. The amount of a nonqualified withdrawal, as defined in section  
20 15-1871, from a college savings plan established pursuant to section 529 of  
21 the internal revenue code that is made to a distributee to the extent the  
22 amount is not included in computing federal adjusted gross income, except  
23 that the amount added under this paragraph shall not exceed the difference  
24 between the amount subtracted under section 43-1022 in prior taxable years  
25 and the amount added under this section in any prior taxable years.

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

31           20. The amount of any previously deferred original issue discount that  
32 was deducted in computing federal adjusted gross income in the current year  
33 pursuant to section 108(i) of the internal revenue code as added by section  
34 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to  
35 the extent that the amount was previously subtracted from Arizona gross  
36 income pursuant to section 43-1022, paragraph 24.

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

42           ~~22.~~ 21. Amounts that are considered to be income under section  
43 43-1032, subsection D because the amount is withdrawn from a long-term health  
44 care savings account and not used to pay the taxpayer's long-term health care  
45 expenses.



1           22. THE AMOUNT OF A WITHDRAWAL THAT IS NOT A QUALIFIED DISABILITY  
2 EXPENSE AS DEFINED IN 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS  
3 ISSUED PURSUANT TO THAT SECTION FROM AN ACHIEVING A BETTER LIFE EXPERIENCE  
4 ACT ACCOUNT ESTABLISHED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND  
5 ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION THAT IS MADE TO A DISTRIBUTEE  
6 TO THE EXTENT THE AMOUNT IS NOT INCLUDED IN COMPUTING FEDERAL ADJUSTED GROSS  
7 INCOME, EXCEPT THAT THE AMOUNT ADDED UNDER THIS PARAGRAPH SHALL NOT EXCEED  
8 THE DIFFERENCE BETWEEN THE AMOUNT SUBTRACTED UNDER SECTION 43-1022 IN PRIOR  
9 TAXABLE YEARS AND THE AMOUNT ADDED UNDER THIS SECTION IN ANY PRIOR TAXABLE  
10 YEARS.

11           Sec. 4. Section 43-1022, Arizona Revised Statutes, is amended to read:  
12           43-1022. Subtractions from Arizona gross income

13           In computing Arizona adjusted gross income, the following amounts shall  
14 be subtracted from Arizona gross income:

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

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

19           (a) The United States government service retirement and disability  
20 fund, retired or retainer pay of the uniformed services of the United States,  
21 the United States foreign service retirement and disability system and any  
22 other retirement system or plan established by federal law.

23           (b) The Arizona state retirement system, the corrections officer  
24 retirement plan, the public safety personnel retirement system, the elected  
25 officials' retirement plan, an optional retirement program established by the  
26 Arizona board of regents under section 15-1628, an optional retirement  
27 program established by a community college district board under section  
28 15-1451 or a retirement plan established for employees of a county, city or  
29 town in this state.

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

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

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

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

43           7. The amount by which the adjusted basis of property described in  
44 this paragraph and computed pursuant to this title and the income tax act of  
45 1954, as amended, exceeds the adjusted basis of such property computed

1 pursuant to the internal revenue code. This paragraph shall apply to all  
2 property that is held for the production of income and that is sold or  
3 otherwise disposed of during the taxable year other than depreciable property  
4 used in a trade or business.

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

7 9. The portion of any wages or salaries paid or incurred by the  
8 taxpayer for the taxable year that is equal to the amount of the federal work  
9 opportunity credit, the empowerment zone employment credit, the credit for  
10 employer paid social security taxes on employee cash tips and the Indian  
11 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
12 and 1396 of the internal revenue code.

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

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

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

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

30 14. The amount of unreimbursed medical and hospital costs, adoption  
31 counseling, legal and agency fees and other nonrecurring costs of adoption  
32 not to exceed three thousand dollars. In the case of a husband and wife who  
33 file separate returns, the subtraction may be taken by either taxpayer or may  
34 be divided between them, but the total subtractions allowed both husband and  
35 wife shall not exceed three thousand dollars. The subtraction under this  
36 paragraph may be taken for the costs that are described in this paragraph and  
37 that are incurred in prior years, but the subtraction may be taken only in  
38 the year during which the final adoption order is granted.

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

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

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

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

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

10          20. For property placed in service:

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

17           (b) In taxable years beginning from and after December 31, 2012  
18 through December 31, 2013, an amount determined in the year the asset was  
19 placed in service based on the calculation in subdivision (a) of this  
20 paragraph. In the first taxable year beginning from and after December 31,  
21 2013, the taxpayer may elect to subtract the amount necessary to make the  
22 depreciation claimed to date for the purposes of this title the same as it  
23 would have been if subdivision (c) of this paragraph had applied for the  
24 entire time the asset was in service. Subdivision (c) of this paragraph  
25 applies for the remainder of the asset's life. If the taxpayer does not make  
26 the election under this subdivision, subdivision (a) of this paragraph  
27 applies for the remainder of the asset's life.

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

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

39          22. With respect to property for which an adjustment was made under  
40 section 43-1021, paragraph 17, an amount equal to one-fifth of the amount of  
41 the adjustment pursuant to section 43-1021, paragraph 17 in the year in which  
42 the amount was adjusted under section 43-1021, paragraph 17 and in each of  
43 the following four years.

44          23. The amount contributed during the taxable year to college savings  
45 plans established pursuant to section 529 of the internal revenue code to the

1 extent that the contributions were not deducted in computing federal adjusted  
2 gross income. The amount subtracted shall not exceed:

3 (a) Two thousand dollars for a single individual or a head of  
4 household.

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

10 24. The amount of any original issue discount that was deferred and not  
11 allowed to be deducted in computing federal adjusted gross income in the  
12 current taxable year pursuant to section 108(i) of the internal revenue code  
13 as added by section 1231 of the American recovery and reinvestment act of  
14 2009 (P.L. 111-5).

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

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

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

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

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

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

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

4 For the purposes of this paragraph, a transferee that receives an asset by  
5 gift or at the death of a transferor is considered to have acquired the asset  
6 when the asset was acquired by the transferor. If the date an asset is  
7 acquired cannot be verified, a subtraction under this paragraph is not  
8 allowed.

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

12 30. With respect to a long-term health care savings account established  
13 pursuant to section 43-1032, the amount deposited by the taxpayer in the  
14 account during the taxable year to the extent that the taxpayer's  
15 contributions are included in the taxpayer's federal adjusted gross income.

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

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

24 CHAPTER 8

25 ARIZONA ABLE PROGRAM

26 ARTICLE 1. GENERAL PROVISIONS

27 46-901. Definitions

28 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

29 1. "ABLE" MEANS THE ACHIEVING A BETTER LIFE EXPERIENCE ACT.

30 2. "ACCOUNT" MEANS AN INDIVIDUAL ACCOUNT IN THE FUND ESTABLISHED AS  
31 PRESCRIBED IN THIS ARTICLE FOR A SINGLE DESIGNATED BENEFICIARY.

32 3. "COMMITTEE" MEANS THE ACHIEVING A BETTER LIFE EXPERIENCE ACT  
33 OVERSIGHT COMMITTEE.

34 4. "DEPARTMENT" MEANS THE DEPARTMENT OF ECONOMIC SECURITY.

35 5. "DESIGNATED BENEFICIARY" MEANS THE ELIGIBLE INDIVIDUAL WHO  
36 ESTABLISHES AN ACCOUNT AND WHO IS THE OWNER OF THE ACCOUNT.

37 6. "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS ENTITLED TO  
38 BENEFITS BASED ON BLINDNESS OR DISABILITY UNDER TITLE II OR XVI OF THE SOCIAL  
39 SECURITY ACT, AND SUCH BLINDNESS OR DISABILITY OCCURRED BEFORE THE DATE ON  
40 WHICH THE INDIVIDUAL ATTAINED TWENTY-SIX YEARS OF AGE OR A DISABILITY  
41 CERTIFICATION WITH RESPECT TO SUCH INDIVIDUAL IS FILED WITH THE UNITED STATES  
42 SECRETARY OF THE TREASURY FOR SUCH TAXABLE YEAR AS STIPULATED IN 26 UNITED  
43 STATES CODE SECTION 529A.

44 7. "FINANCIAL INSTITUTION" MEANS ANY BANK, COMMERCIAL BANK, NATIONAL  
45 BANK, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, CREDIT UNION, INSURANCE

1 COMPANY, BROKERAGE FIRM OR OTHER SIMILAR ENTITY THAT IS AUTHORIZED TO DO  
2 BUSINESS IN THIS STATE.

3 8. "FUND" MEANS THE ABLE PROGRAM FUND.

4 9. "PROGRAM" MEANS THE QUALIFIED ABLE PROGRAM THAT IS ESTABLISHED  
5 UNDER THIS ARTICLE AND AS DEFINED IN 26 UNITED STATES CODE SECTION 529A.

6 10. "QUALIFIED DISABILITY EXPENSES" MEANS ANY EXPENSES THAT ARE  
7 RELATED TO THE ELIGIBLE INDIVIDUAL'S BLINDNESS OR DISABILITY AND THAT ARE FOR  
8 THE BENEFIT OF AN ELIGIBLE INDIVIDUAL WHO IS THE DESIGNATED BENEFICIARY OF AN  
9 ACCOUNT, INCLUDING EDUCATION, HOUSING, TRANSPORTATION, EMPLOYMENT TRAINING  
10 AND SUPPORT, ASSISTIVE TECHNOLOGY AND PERSONAL SUPPORT SERVICES, HEALTH CARE,  
11 PREVENTION AND WELLNESS, FINANCIAL MANAGEMENT AND ADMINISTRATIVE SERVICES,  
12 LEGAL FEES, EXPENSES FOR OVERSIGHT AND MONITORING AND FUNERAL AND BURIAL  
13 EXPENSES AND ANY OTHER EXPENSES THAT ARE APPROVED BY THE UNITED STATES  
14 SECRETARY OF THE TREASURY AS REQUIRED BY 26 UNITED STATES CODE SECTION 529A.

15 46-902. Qualified ABLE program; duties

16 THE DEPARTMENT SHALL:

17 1. DEVELOP AND IMPLEMENT THE PROGRAM IN A MANNER CONSISTENT WITH THIS  
18 ARTICLE THROUGH THE ADOPTION OF RULES, GUIDELINES AND PROCEDURES IN  
19 CONSULTATION WITH THE COMMITTEE.

20 2. RETAIN PROFESSIONAL SERVICES, IF NECESSARY, INCLUDING ACCOUNTANTS,  
21 AUDITORS, CONSULTANTS AND OTHER EXPERTS.

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

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

26 5. PROVIDE NOTIFICATION TO THE CHAIRPERSONS OF THE SENATE HEALTH AND  
27 HUMAN SERVICES COMMITTEE AND THE HOUSE OF REPRESENTATIVES CHILDREN AND FAMILY  
28 AFFAIRS COMMITTEE OR THEIR SUCCESSOR COMMITTEES OF ANY MATERIAL CHANGES TO  
29 THE FEDERAL PROGRAM THAT WOULD NECESSITATE CHANGES IN THIS ARTICLE OR RULES  
30 ADOPTED PURSUANT TO THIS ARTICLE.

31 6. NEGOTIATE AND SELECT THE FINANCIAL INSTITUTION OR INSTITUTIONS TO  
32 ACT AS THE DEPOSITORY AND MANAGER OF THE PROGRAM IN ACCORDANCE WITH THIS  
33 ARTICLE. THE DEPARTMENT SHALL CONSULT WITH THE COMMITTEE WHEN SELECTING THE  
34 FINANCIAL INSTITUTION OR INSTITUTIONS.

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

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

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

41 10. PROVIDE FOR SEPARATE ACCOUNTING FOR EACH DESIGNATED BENEFICIARY OF  
42 THE DESIGNATED BENEFICIARY'S ACCOUNT.

43 11. DEVELOP PROCEDURES FOR EDUCATING ACCOUNT OWNERS ABOUT NONQUALIFIED  
44 AND QUALIFIED EXPENSES IF THE DEPARTMENT FINDS THAT DISTRIBUTIONS FROM ANY  
45 ACCOUNT WERE MADE FOR NONQUALIFIED EXPENSES.

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

4           46-903. Use of contractor as account depository: program  
5                               manager

6           A. THE DEPARTMENT SHALL IMPLEMENT THE OPERATION OF THE PROGRAM THROUGH  
7 THE USE OF ONE OR MORE FINANCIAL INSTITUTIONS TO ACT AS THE DEPOSITORIES OF  
8 THE FUND AND MANAGERS OF THE PROGRAM. UNDER THE PROGRAM, PERSONS MAY SUBMIT  
9 APPLICATIONS FOR ENROLLMENT IN THE PROGRAM AND ESTABLISH ACCOUNTS IN THE FUND  
10 AT THE FINANCIAL INSTITUTION. MONIES PAID BY ACCOUNT OWNERS AND OTHER  
11 CONTRIBUTORS TO THE FUND FOR DEPOSIT IN ACCOUNTS MAINTAINED BY THE FUND AT A  
12 FINANCIAL INSTITUTION SHALL BE PAID TO THE FINANCIAL INSTITUTION AS AN AGENT  
13 OF THE FUND AND SHALL PROVIDE THAT ALL MONIES PAID BY ACCOUNT OWNERS AND  
14 OTHER CONTRIBUTORS TO FUND ACCOUNTS HELD AT FINANCIAL INSTITUTIONS ARE BEING  
15 PAID TO THE FUND.

16           B. THE DEPARTMENT SHALL SOLICIT PROPOSALS FROM FINANCIAL INSTITUTIONS  
17 TO ACT AS THE DEPOSITORIES OF FUND MONIES AND MANAGERS OF THE PROGRAM.  
18 FINANCIAL INSTITUTIONS THAT SUBMIT PROPOSALS SHALL DESCRIBE THE FINANCIAL  
19 INSTRUMENTS THAT WILL BE HELD IN ACCOUNTS. AFTER REVIEW AND RECOMMENDATION  
20 FROM THE COMMITTEE, THE DEPARTMENT SHALL SELECT PROPOSALS FROM FINANCIAL  
21 INSTITUTIONS TO ACT AS DEPOSITORIES AND MANAGERS. THE SOLICITATION AND  
22 SELECTION PROCESS UNDER THIS SECTION IS EXEMPT FROM THE PROCUREMENT CODE  
23 REQUIREMENTS OF TITLE 41, CHAPTER 23.

24           C. ON THE RECOMMENDATION OF THE COMMITTEE, THE DEPARTMENT SHALL SELECT  
25 THE FINANCIAL INSTITUTION OR INSTITUTIONS TO IMPLEMENT THE PROGRAM FROM AMONG  
26 BIDDING FINANCIAL INSTITUTIONS THAT DEMONSTRATE THE MOST ADVANTAGEOUS  
27 COMBINATION, BOTH TO POTENTIAL PROGRAM PARTICIPANTS AND THIS STATE, OF THE  
28 FOLLOWING FACTORS:

29           1. FINANCIAL STABILITY AND INTEGRITY.

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

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

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

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

38           6. THE MINIMUM INITIAL DEPOSIT THAT THE FINANCIAL INSTITUTION WILL  
39 REQUIRE FOR THE INVESTMENT OF FUND MONIES, IF ANY, AND THE WILLINGNESS OF THE  
40 FINANCIAL INSTITUTION TO ACCEPT CONTRIBUTIONS THROUGH PAYROLL DEDUCTION PLANS  
41 AND OTHER DEPOSIT PLANS.

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

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

3           D. THE DEPARTMENT SHALL ENTER INTO A CONTRACT WITH A FINANCIAL  
4 INSTITUTION OR FINANCIAL INSTITUTIONS TO SERVE AS PROGRAM MANAGERS AND  
5 DEPOSITORIES. PROGRAM MANAGEMENT CONTRACTS SHALL PROVIDE THE TERMS AND  
6 CONDITIONS BY WHICH FINANCIAL INSTITUTIONS SHALL SELL INTERESTS IN THE FUND  
7 TO DESIGNATED BENEFICIARIES, INVEST MONIES IN THE FUND AND MANAGE THE  
8 PROGRAM.

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

13           F. A PROGRAM MANAGER SHALL:

14           1. TAKE ALL ACTION REQUIRED TO KEEP THE PROGRAM IN COMPLIANCE WITH THE  
15 REQUIREMENTS OF THIS ARTICLE AND ALL ACTION NOT CONTRARY TO THIS ARTICLE OR  
16 ITS CONTRACT TO MANAGE THE PROGRAM SO THAT IT IS TREATED AS A QUALIFIED ABLE  
17 PROGRAM UNDER 26 UNITED STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED  
18 PURSUANT TO THAT SECTION.

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

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

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

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

32           H. THE DEPARTMENT MAY TERMINATE A CONTRACT WITH A FINANCIAL  
33 INSTITUTION AT ANY TIME FOR GOOD CAUSE ON THE RECOMMENDATION OF THE  
34 COMMITTEE. IF A CONTRACT IS TERMINATED PURSUANT TO THIS SUBSECTION, THE  
35 DEPARTMENT SHALL TAKE CUSTODY OF ACCOUNTS HELD AT THAT FINANCIAL INSTITUTION  
36 AND SHALL SEEK TO PROMPTLY TRANSFER THE ACCOUNTS TO ANOTHER FINANCIAL  
37 INSTITUTION THAT IS SELECTED AS A PROGRAM MANAGER AND INTO INVESTMENT  
38 INSTRUMENTS AS SIMILAR TO THE ORIGINAL INVESTMENTS AS POSSIBLE.

39           46-904. Incapacitated or minor eligible individual

40           A. IF AN ELIGIBLE INDIVIDUAL IS A MINOR OR AN INCAPACITATED ADULT, THE  
41 ACCOUNT MAY BE OPENED AND MANAGED BY ANY OF THE FOLLOWING AS LONG AS THE  
42 INDIVIDUALS LISTED ARE NOT IN CONFLICT WITH 26 UNITED STATES CODE SECTION  
43 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION:



- 1           1. AN AGENT UNDER A VALID POWER OF ATTORNEY SIGNED BY THE ELIGIBLE
- 2 INDIVIDUAL AT A TIME WHEN THE ELIGIBLE INDIVIDUAL HAD CAPACITY TO EXECUTE THE
- 3 POWER.
- 4           2. A PARENT OF A MINOR CHILD WHO IS AN ELIGIBLE INDIVIDUAL.
- 5           3. A COURT-APPOINTED CONSERVATOR OF THE ESTATE OF THE ELIGIBLE
- 6 INDIVIDUAL.
- 7           4. A COURT-APPOINTED GUARDIAN OF THE ELIGIBLE INDIVIDUAL, WITH EXPRESS
- 8 AUTHORIZATION.
- 9           B. IN ANY CASE IN WHICH A COURT AUTHORIZES THE CONSERVATOR OR GUARDIAN
- 10 OF THE ELIGIBLE INDIVIDUAL TO OPEN AND MANAGE THE ACCOUNT, THE COURT, IN ITS
- 11 DISCRETION, MAY WAIVE ANY REQUIREMENT OF FURTHER ACCOUNTING PURSUANT TO
- 12 SECTION 14-5419 OR INCLUSION IN ANY BOND ESTABLISHED FOR THE CONSERVATORSHIP
- 13 PURSUANT TO SECTION 14-5411.
- 14           46-905. Program requirements
- 15           A. THE PROGRAM SHALL REQUIRE:
- 16           1. A DESIGNATED BENEFICIARY TO HAVE ONLY ONE ACCOUNT.
- 17           2. A DESIGNATED BENEFICIARY TO DIRECT THE INVESTMENT OF ANY
- 18 CONTRIBUTIONS TO THE PROGRAM OR ANY EARNINGS NOT MORE THAN TWO TIMES IN ANY
- 19 CALENDAR YEAR.
- 20           3. CONTRIBUTIONS TO ACCOUNTS TO BE MADE ONLY IN CASH.
- 21           4. THAT ANY EXCESS CONTRIBUTIONS WITH RESPECT TO A DESIGNATED
- 22 BENEFICIARY BE REJECTED PURSUANT TO 26 UNITED STATES CODE SECTION 529A AND
- 23 ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.
- 24           B. CONTRIBUTIONS TO AND EARNINGS ON A DESIGNATED BENEFICIARY'S ACCOUNT
- 25 IN THIS OR ANY OTHER STATE SHALL NOT BE COUNTED AS INCOME OR RESOURCES OF THE
- 26 DESIGNATED BENEFICIARY FOR THE PURPOSES OF ELIGIBILITY FOR ANY PROGRAM UNDER
- 27 THIS TITLE OR TITLE 36, CHAPTER 29.
- 28           C. SUBJECT TO ANY OUTSTANDING PAYMENTS DUE FOR QUALIFIED DISABILITY
- 29 EXPENSES, ON THE DEATH OF THE DESIGNATED BENEFICIARY, A CLAIM MAY BE FILED
- 30 FOR PAYMENT OF ALL AMOUNTS REMAINING IN THE ACCOUNT NOT IN EXCESS OF THE
- 31 AMOUNT EQUAL TO THE TOTAL MEDICAL ASSISTANCE PAID FOR THE DESIGNATED
- 32 BENEFICIARY AFTER ESTABLISHMENT OF THE ACCOUNT AS AUTHORIZED BY 26 UNITED
- 33 STATES CODE SECTION 529A AND ANY REGULATIONS ISSUED PURSUANT TO THAT SECTION.
- 34           D. AN ACCOUNT MAY BE OPENED BY A DESIGNATED BENEFICIARY BY COMPLETING
- 35 AN APPLICATION IN THE FORM PRESCRIBED BY THE DEPARTMENT. SEPARATE RECORDS
- 36 AND ACCOUNTING SHALL BE MAINTAINED FOR EACH ACCOUNT FOR EACH DESIGNATED
- 37 BENEFICIARY.
- 38           E. A DESIGNATED BENEFICIARY MAY NOT USE AN INTEREST IN AN ACCOUNT AS
- 39 SECURITY FOR A LOAN. ANY PLEDGE OF AN INTEREST IN AN ACCOUNT IS OF NO FORCE
- 40 AND EFFECT.
- 41           F. THE FINANCIAL INSTITUTION SHALL PROVIDE STATEMENTS TO EACH
- 42 DESIGNATED BENEFICIARY AT LEAST ONCE EACH YEAR WITHIN THIRTY-ONE DAYS AFTER
- 43 THE TWELVE-MONTH PERIOD TO WHICH THEY RELATE. THE STATEMENT SHALL IDENTIFY
- 44 THE CONTRIBUTIONS MADE DURING A PRECEDING TWELVE-MONTH PERIOD, THE TOTAL
- 45 CONTRIBUTIONS MADE THROUGH THE END OF THE PERIOD, THE VALUE OF THE ACCOUNT AS

1 OF THE END OF THIS PERIOD, DISTRIBUTIONS MADE DURING THIS PERIOD AND ANY  
2 OTHER MATTERS THAT THE DEPARTMENT REQUIRES BE REPORTED TO THE ACCOUNT OWNER.

3 G. STATEMENTS AND INFORMATION RETURNS RELATING TO ACCOUNTS SHALL BE  
4 PREPARED AND FILED TO THE EXTENT REQUIRED BY FEDERAL OR STATE LAW.

5 H. ANY SOCIAL SECURITY NUMBERS, ADDRESSES OR TELEPHONE NUMBERS OF  
6 DESIGNATED BENEFICIARIES THAT COME INTO THE POSSESSION OF THE DEPARTMENT ARE  
7 CONFIDENTIAL, ARE NOT PUBLIC RECORDS AND SHALL NOT BE RELEASED BY THE  
8 DEPARTMENT.

9 46-906. Limitations of article

10 A. THIS ARTICLE DOES NOT:

11 1. GIVE ANY DESIGNATED BENEFICIARY ANY RIGHTS OR LEGAL INTEREST IN AN  
12 ACCOUNT UNLESS THE DESIGNATED BENEFICIARY IS THE ACCOUNT OWNER.

13 2. GUARANTEE THAT AN ELIGIBLE INDIVIDUAL WILL RECEIVE SERVICES FROM A  
14 DEPARTMENT OR AGENCY OF THIS STATE RELATED TO THE ELIGIBLE INDIVIDUAL'S  
15 DISABILITY.

16 3. GUARANTEE THAT THE AMOUNTS DEPOSITED IN AN ELIGIBLE INDIVIDUAL'S  
17 ACCOUNT AND ANY EARNINGS ON THAT ACCOUNT PURSUANT TO THE PROGRAM WILL BE  
18 SUFFICIENT TO COVER ANY QUALIFIED DISABILITY EXPENSE OF THE ELIGIBLE  
19 INDIVIDUAL.

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

23 1. THE RETURN OF ANY AMOUNTS CONTRIBUTED TO AN ACCOUNT.

24 2. THE RATE OF INTEREST OR OTHER RETURN ON ANY ACCOUNT.

25 3. THE PAYMENT OF INTEREST OR OTHER RETURN ON ANY ACCOUNT.

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

31 46-907. Achieving a better life experience act oversight  
32 committee; termination

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

35 1. THE DIRECTOR OF THE DEPARTMENT OR THE DIRECTOR'S DESIGNEE.

36 2. THE STATE TREASURER OR THE STATE TREASURER'S DESIGNEE.

37 3. ONE MEMBER WHO HAS KNOWLEDGE, SKILL AND EXPERIENCE IN INVESTMENT,  
38 ASSET MANAGEMENT OR FINANCIAL-RELATED EXPERIENCE AND WHO IS APPOINTED BY THE  
39 GOVERNOR.

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

43 5. ONE MEMBER WHO IS AN ELIGIBLE INDIVIDUAL AND WHO IS APPOINTED BY  
44 THE GOVERNOR.

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

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

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

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

10          D. THE COMMITTEE SHALL:

11           1. MAKE RECOMMENDATIONS AND PROVIDE GUIDANCE FOR THE ESTABLISHMENT,  
12 IMPLEMENTATION AND IMPROVEMENT OF THE PROGRAM, INCLUDING STATUTORY AND RULE  
13 CHANGES.

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

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

18           4. PROVIDE ADVICE REGARDING REQUIREMENTS FOR DISBURSEMENTS FROM  
19 ACCOUNTS FOR QUALIFIED DISABILITY EXPENSES.

20           5. MONITOR THE USE AND EFFECTIVENESS OF THE PROGRAM, INCLUDING THE  
21 NUMBER OF ACCOUNTS ESTABLISHED AND USED, THE NUMBER OF DESIGNATED  
22 BENEFICIARIES BEING SERVED, A DESCRIPTION OF THE TYPES OF DISABILITIES THE  
23 DESIGNATED BENEFICIARIES HAVE AND THE TYPES OF EXPENSES FOR WHICH  
24 DISBURSEMENTS HAVE BEEN MADE.

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

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

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

32           46-908. Program termination

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

35           Sec. 6. Annual report

36           The department of economic security shall submit an annual report for  
37 seven years after the effective date of this section to the speaker of the  
38 house of representatives, the president of the senate and the governor that  
39 summarizes the effectiveness of the program, including the number of accounts  
40 established and used, the number of designated beneficiaries being served, a  
41 description of the types of disabilities the designated beneficiaries have  
42 and a summary of the qualified disability expenses that disbursements from  
43 the accounts are being used for. The first annual report is due on or before  
44 December 31, 2017. The remaining four reports are due on or before  
45 December 31 of each year thereafter.

