



ARIZONA STATE SENATE
Fifty-Fourth Legislature, First Regular Session

ENACTED

AMENDED

FACT SHEET FOR H.B. 2754/S.B. 1553

health; budget reconciliation; 2019-2020.

Purpose

Makes statutory and session law changes relating to health necessary to implement the FY 2020 state budget.

Background

The Arizona Constitution prohibits substantive law from being included in the general appropriations, capital outlay appropriations and supplemental appropriations bills. However, it is often necessary to make statutory and session law changes to effectuate the budget. Thus, separate bills called budget reconciliation bills (BRBs) are introduced to enact these provisions. Because BRBs contain substantive law changes, the Arizona Constitution provides that they become effective on the general effective date, unless an emergency clause is enacted.

H.B. 2754 contains the budget reconciliation provisions for changes relating to health.

Provisions

Department of Health Services (DHS)

1. Authorizes DHS to use monies from the Disease Control Research Fund for Acquired Immune Deficiency Syndrome reporting and surveillance.
2. Makes permanent the authority of DHS to use monies in the Health Research Account of the Tobacco Tax and Health Care Fund for Alzheimer's disease research and other health research purposes.
3. Directs DHS to allow a person who is employed at a health care institution that provides behavioral health services, who is not a licensed behavioral health profession and who is at least 18 years old to provide outpatient behavioral health and other related health care services.
4. Continues to allow the Director of DHS to increase fees in FY 2020 for services provided by the Bureau of Radiation Control (BRC) and continues to exempt DHS from rulemaking requirements for this purpose until July 1, 2020.
5. States that it is the intent of the Legislature that revenues generated by fees collected for BRC services do not exceed \$1,900,000.

6. Directs DHS to deposit fees collected for BRC services into the Health Services Licensing Fund.
7. Continues to allow monies in the Health Services Lottery Monies Fund to be used for purposes specified in the FY 2020 General Appropriations Act.

Department of Economic Security (DES)

8. Establishes the Family Caregiver Grant Program (Program), beginning January 1, 2020, for individuals who have qualifying expenses during a calendar year due to caring for and supporting a qualifying family member in the individual's home.
9. Establishes the following application criteria for a Family Caregiver Grant (Grant):
 - a) the individual must submit an application to DES;
 - b) the individual must be an Arizona resident;
 - c) the individual's Arizona gross income, in addition to any Arizona gross income of each qualifying family member, in the taxable year may not exceed:
 - i. \$75,000 in the case of a single person or separately filing married person; and
 - ii. \$150,000 in the case of a married couple filing a joint return;
 - d) the individual must incur qualifying expenses during the calendar year in which the applicant applies for the Grant for the care of one or more qualifying family member; and
 - e) the individual must submit with the Grant claim the qualifying family member's name and relationship to the applicant.
10. Limits the Grant amount to 50 percent of the qualifying expenses incurred during the calendar year in which the applicant applies for the Grant.
11. Caps the Grant amount at \$1,000 per qualifying family member.
12. Prohibits Grant recipients from applying for a subsequent Grant for three consecutive calendar years.
13. Directs DES to certify Grant applications on a first-come, first-served basis.
14. Prohibits DES from awarding Grants that exceed \$500,000 in any calendar year.
15. Requires DES to include questions on the Grant application to help determine whether the awarded Grants delayed or prevented a qualifying family member from entering a long-term care or assisted living facility in the calendar year of the application or future years.
16. Allows DES to use the Governor's Advisory Council on Aging to provide input on Grant application approval, qualifying expenses and other issues related to the Program.
17. Establishes the Family Caregiver Grant Program Fund (Fund) and requires the Director of DES to administer the Fund.
18. Specifies the Fund consists of grants, gifts, donations and legislative appropriations, and specifies that Fund monies are continuously appropriated.

19. Specifies that Fund monies may only be spent for Grants provided to individuals who are caring for and supporting qualifying family members in the individual's home.
20. Requires DES to report to the Legislature regarding annual Fund expenditures by way of DES's annual report and requires the report to include:
 - a) aggregate data summarizing the qualifying expenses approved for Grants;
 - b) the types of individuals who qualified for a Grant; and
 - c) information about the ability of qualified family members to delay entering a long-term care or assisted living facility.
21. Directs the State Treasurer to invest and divest Fund monies as prescribed and credit monies earned from investment to the Fund.
22. Specifies that interest and other income derived from the Fund may only be used for the Program.
23. Prohibits interest and other income derived from the Fund from supplanting other appropriations.
24. Repeals the Program and Fund on July 1, 2023.

Behavioral Health Residential Facilities (BHRFs)

25. Requires DHS to license secure BHRFs to provide secure 24-hour on-site supportive treatment and supervision by staff with behavioral health training for individuals who:
 - a) have been determined to be seriously mentally ill (SMI);
 - b) are chronically resistant to treatment for a mental disorder; and
 - c) are placed in the BHRF pursuant to a court order.
26. Requires that each community residential treatment system include a secure BHRF program that provides secure 24-hour on-site supportive treatment and supervision by staff with behavioral health training only to individuals who meet the prescribed criteria.
27. Limits a secure BHRF to 16 beds.
28. Specifies that a secure BHRF may only provide services to individuals placed in the BHRF pursuant to a court order and prohibits the provision of services to any other individuals on the BHRF's premises.
29. Allows the court to approve and order placement in a licensed secure BHRF if the patient has met prescribed criteria for court-ordered treatment, the patient has been determined to be SMI and the court finds that the patient is chronically resistant to treatment.
30. Authorizes a court to determine that a person is chronically resistant to treatment if the court finds that within 24 months before the issuance of a court order, excluding any time that the person was hospitalized or incarcerated, the person demonstrated a persistent or recurrent unwillingness or inability to participate in or adhere to treatment for a mental disorder despite having treatment offered, prescribed, recommended or ordered to improve the person's condition, prevent a relapse or prevent harmful deterioration of the person's condition.

31. Requires the court's determination that a person is chronically resistant to treatment to be based on clear and convincing evidence that establishes:
 - a) the person received treatment in the preceding 24 months in other less-restrictive settings, including unsecured residential treatment settings with on-site 24-hour supportive treatment and supervision by staff with behavioral health training, and the treatment:
 - i. was unsuccessful; or
 - ii. is unlikely to be successful due to the person's expressed or demonstrated unwillingness to cooperate with treatment in less-restrictive or unsecured residential treatment settings;
 - b) the person's nonadherence to or nonparticipation in treatment over the preceding 24 months resulted in:
 - i. serious harm to self;
 - ii. serious harm or threats of serious harm to others;
 - iii. recurrent periods of homelessness resulting from the mental disorder;
 - iv. recurrent serious medical problems due to poor selfcare or failure to follow medical treatment recommendations; or
 - v. recurrent arrests due to behavior resulting from the mental disorder; and
 - c) any other evidence relevant to the person's willingness or ability to participate in and adhere to treatment or the person's need for treatment in a licensed secure BHRF setting to ensure compliance with court-ordered treatment.
32. Requires that a person's placement in a licensed secure BHRF for treatment be part of the written treatment plan as presented to and approved by the court.
33. Directs the court to confirm in the court order that the person's placement in a licensed secure BHRF is the least restrictive environment to ensure compliance with the person's treatment plan.
34. Specifies that placement in a secure BHRF for treatment is not considered a period of inpatient treatment.

Arizona Health Care Cost Containment System (AHCCCS)

35. Allows monies in the Seriously Mentally Ill Housing Trust Fund (SMI HTF) to be spent on rental assistance for individuals who are SMI, upon AHCCCS approval.
36. Requires AHCCCS to report the number of individuals who benefitted from rental assistance in the annual legislative report on the status of the SMI HTF.
37. Continues to allow AHCCCS to continue risk contingency rate settings for all managed care organizations (MCOs) and funding for all MCO administrative funding levels imposed in contract year 2010 for the contract year beginning October 1, 2019, and ending September 30, 2020.
38. Continues to require AHCCCS, for FY 2020, to transfer to the counties by December 31, 2019, any portion necessary to comply with the federal Patient Protection and Affordable Care Act regarding the counties' proportional share of the state's contribution.

39. Eliminates the requirement that AHCCCS immediately stop processing KidsCare applications if the state's federal assistance percentage is less than 100 percent, and instead permits the Director of AHCCCS to stop processing KidsCare applications upon a determination that federal and state appropriations for KidsCare are insufficient.
40. Requires AHCCCS to issue a report, by January 31, 2022, that measures outcomes over a 12-month period of SMI individuals and who reside in secure BHRFs pursuant to a court order.
41. Requires the report to include an analysis of costs and effectiveness of the services provided in secure BHRFs that takes into consideration the encounters of SMI residents related to:
 - a) inpatient care;
 - b) emergency department visits;
 - c) hospitalization;
 - d) civil commitment proceedings;
 - e) incarceration;
 - f) homelessness;
 - g) employment;
 - h) community engagement; and
 - i) encounters with police and fire personnel, including:
 - i. petitioning and contact with crisis centers;
 - ii. citation in lieu of detention;
 - iii. jail bookings; and
 - iv. other contact with first responders.
42. Allows AHCCCS to contract with a third-party to collect the data and compile the report.
43. Requires AHCCCS to issue the report to the Governor and the presiding officer in each chamber of the Legislature and to provide a copy of the report to the Secretary of State.
44. Makes permanent the requirement that AHCCCS and DHS submit an annual joint report on hospital charge master transparency, by January 2 of each year, that:
 - a) summarizes the current charge master reporting process and hospital billed charges compared to costs;
 - b) provides examples of how charge masters or hospital prices are reported and used in other states; and
 - c) includes recommendations to improve Arizona's use of hospital charge master information, including reporting and oversight changes.
45. Requires that the report be submitted to the Governor and the presiding officer in each chamber of the Legislature and that a copy be provided to the Secretary of State.
46. Makes permanent the requirement that AHCCCS submit an annual report to the Director of the Joint Legislative Budget Committee (JLBC), by January 2 of each year, on the availability of inpatient psychiatric treatment for adults, children and adolescents who receive services from regional behavioral health authorities that includes:
 - a) the total number of inpatient psychiatric treatment beds available and the occupancy rate;
 - b) expenditures on inpatient psychiatric treatment;

- c) the total number of individuals in Arizona who are sent out of state for inpatient psychiatric treatment; and
- d) the prevalence of psychiatric boarding or holding psychiatric patients in emergency rooms for at least 24 hours prior to transferring the patients to a psychiatric facility.

47. Specifies that the report must provide the prescribed information separately for adults who are at least 21 years old and for children and adolescents who are 21 years old or younger.

48. Outlines the following FY 2020 county contributions for the Acute Long-Term Care System (ALTCS), totaling \$290,276,100:

| County | Contribution |
|------------|---------------|
| Apache | \$720,200 |
| Cochise | \$5,176,200 |
| Coconino | \$2,162,200 |
| Gila | \$2,418,200 |
| Graham | \$1,684,400 |
| Greenlee | \$8,200 |
| La Paz | \$822,000 |
| Maricopa | \$185,791,300 |
| Mohave | \$9,232,700 |
| Navajo | \$2,981,000 |
| Pima | \$45,157,400 |
| Pinal | \$13,755,300 |
| Santa Cruz | \$2,266,800 |
| Yavapai | \$8,543,800 |
| Yuma | \$9,556,400 |

49. Directs the State Treasurer to collect from the counties the difference between the total contribution and the counties' share of the state's actual contribution, if the overall cost for the ALTCS exceeds the amount specified in the General Appropriations Act for FY 2020.

50. Specifies that the counties' share of the state's contribution must comply with any federal maintenance effort requirements.

51. Requires the Director of AHCCCS to notify the State Treasurer of the counties' share of the state's contribution and report the amount to the Director of the JLBC.

52. Directs the State Treasurer to:

- a) withhold from any other monies payable to a county from any available state funding source, excluding the Arizona Highway User Revenue Fund, an amount necessary to fulfill that county's contribution requirement; and
- b) deposit the withheld amounts and amounts paid by counties into the ALTCS Fund.

53. Outlines the following FY 2020 county Acute Care contributions:

| County | Contribution |
|---------------|---------------------|
| Apache | \$268,800 |
| Cochise | \$2,214,800 |
| Coconino | \$742,900 |
| Gila | \$1,413,200 |
| Graham | \$536,200 |
| Greenlee | \$190,700 |
| La Paz | \$212,100 |
| Maricopa | \$18,131,400 |
| Mohave | \$1,237,700 |
| Navajo | \$310,800 |
| Pima | \$14,951,800 |
| Pinal | \$2,715,600 |
| Santa Cruz | \$482,800 |
| Yavapai | \$1,427,800 |
| Yuma | \$1,325,100 |

54. Requires the State Treasurer, if a county does not provide the aforementioned funding, to:

- a) subtract the amount owed by the county from any payments required to be made by the State Treasurer to the county plus interest on that amount, retroactive to the first day the funding was due; and
- b) if the amount withheld is insufficient to meet that county's funding requirement, withhold from any other monies payable to that county from any available state funding source, excluding the Arizona Highway User Revenue Fund, an amount necessary to fulfill that county's requirement.

55. Requires payment equal to one-twelfth of the total amount for county Acute Care contributions to be made to the State Treasurer by the fifth day of each month and requires the State Treasurer, on request from the Director of AHCCCS, to require that up to three months payment be made in advance, if necessary.

56. Requires the State Treasurer to deposit the amounts paid or withheld into the AHCCCS Fund and ALTCS Fund.

57. Allows the Director of AHCCCS, if payments made exceed the amount required to meet the costs incurred by AHCCCS for the hospitalization and medical care of eligible persons, to instruct the State Treasurer to:

- a) reduce remaining payments to be paid by a specified amount; or
- b) provide to the counties specified amounts from the AHCCCS Fund and ALTCS Fund.

58. States that it is the intent of the Legislature that the Maricopa County Acute Care contribution is reduced in each subsequent year according to the changes in the Gross Domestic Product price deflator.
59. States it is the intent of the Legislature for FY 2020 that AHCCCS implement a program within the available appropriation.

Disproportionate Share Hospital (DSH) Payments

60. Establishes the FY 2020 DSH payments as follows:
- a) \$113,818,500 for a qualifying nonstate-operated public hospital, of which \$4,202,300 is distributed to the Maricopa County Special Health Care District (MIHS), and the remaining federal portion is distributed to the state General Fund (GF);
 - b) \$28,474,900 for the Arizona State Hospital (ASH), of which the federal portion is distributed into the state GF; and
 - c) \$884,800 for private qualifying DHS hospitals, which are hospitals that meet the mandatory definition of *qualifying DSHs*, as defined by the Social Security Act, or hospitals that are located in Yuma and contain at least 300 beds.
61. Outlines the following requirements once AHCCCS files a claim with the federal government and receives federal financial participation based on the amount certified by the MIHS:
- a) if the certification is equal to or less than \$113,818,500 and AHCCCS determines that the revised amount is correct, AHCCCS must notify the Governor, the President of the Senate and the Speaker of the House of Representatives (House) and distribute \$4,202,300 to the MIHS and deposit the balance of the federal financial participation into the state GF;
 - b) if the certification is for an amount less than \$113,818,500 and AHCCCS determines that the revised amount is incorrect, AHCCCS must notify the Governor, the President of the Senate and the Speaker of the House and must deposit the total amount of the federal financial participation into the state GF; or
 - c) if the certification is for an amount greater than \$113,818,500, AHCCCS must distribute \$4,202,300 to the MIHS and \$75,254,400 of the federal financial participation to the state GF.
62. Allows AHCCCS to make additional DSH payments to the MIHS.
63. Outlines the following requirements once AHCCCS files a claim with the federal government and receives federal financial participation based on the amount certified by ASH:
- a) if the certification is for an amount less than \$28,474,900, AHCCCS must notify the Governor, the President of the Senate and the Speaker of the House and must distribute the entire amount of federal financial participation to the state GF; and
 - b) requires the certified public expense (CPE) form to contain both the total amount of qualifying DSH expenditures and the amount limited by the Social Security Act.
64. Stipulates that, after DSH payment distributions are made, the allocation of DSH payments designated by political subdivisions, tribal governments and universities must be made available first to qualifying private hospitals located outside the Phoenix Metropolitan Statistical Area and Tucson Metropolitan Statistical Area before being made available to qualifying hospitals within those areas.

65. Requires the MIHS and ASH to each provide a CPE form for the amount of qualifying DSH expenditures to AHCCCS by May 1, 2020, for the MIHS, and March 31, 2020, for ASH.
66. Continues to require AHCCCS to assist the MIHS and ASH in determining the amount of qualifying expenditures and maintains reporting requirements and distribution procedures of received federal matching funds in FY 2020.

Miscellaneous

67. Makes permanent the requirement that a city, town or county, rather than the state, pay for the costs of inpatient, in-custody competency restoration treatment (CRT) at ASH for defendants who are unable to pay all or a portion of the cost of treatment.
68. Allows counties to use any county revenue source to meet prescribed funding requirements for CRT, including funds of any countywide special taxing district of which the county Board of Supervisors serves as the Board of Directors.
69. Excludes county contributions for CRT funding from county expenditure limitations.
70. Continues to exclude county contributions for Proposition 204 administrative costs from county expenditure limitations.
71. Defines relevant terms.
72. Makes technical and conforming changes.
73. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

1. Allows counties to use any county revenue source to meet CRT funding requirements.
2. Excludes county contributions for CRT funding from county expenditure limitations.
3. Allows monies in the SMI HTF to be spent on rental assistance for SMI individuals and requires AHCCCS to annually report the number of individuals who benefit from the rental assistance.
4. Requires AHCCCS to issue a report that measures outcomes over a one-year period of for SMI individuals who reside in a secure BHRF.
5. Establishes the Program, beginning January 1, 2020.
6. Establishes eligibility criteria for the Program.
7. Establishes limitations for Grant amounts.
8. Directs DES to certify Grant applications.
9. Prohibits DES from awarding Grants that exceed an aggregate of \$500,000 in a single calendar year.

10. Allows DES to use the Governor's Advisory Council on Aging to provide input on the Program.
11. Establishes the Fund and directs DES to administer the Fund.
12. Requires DES to report to the Legislature regarding annual Fund expenditures.
13. Repeals the Program and Fund on July 1, 2023.

House Action

APPROP 5/22/19 DP 7-4-0-0
3rd Read 5/24/19 31-29-0

Senate Action

APPROP 5/22/19 DP 6-4-0
3rd Read 5/27/19 16-13-1
(H.B. 2754 was substituted for S.B. 1553 on
3rd Read)

Signed by the Governor 5/31/19
Chapter 270

Prepared by Senate Research
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