



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
Second Regular Session

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Senate: 3<sup>rd</sup> Read 20-8-2-0

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## **HB 2863: health care; 2022-2023 (Substituted for SB 1730)**

**Sponsor: Representative Cobb (with permission of committee on Rules), LD 5**  
**Transmitted to the Governor**

### **Overview**

Contains session law provisions relating to health care needed to implement the FY 2023 budget.

### **History**

The Arizona Legislature adopts a budget for each fiscal year (FY) that contains general appropriations. [Article IV, Section 20, Part 2](#), Constitution of Arizona, requires the *General Appropriations Act* (feed bill) to contain only appropriations for the different state departments, state institutions, public schools and interest on public debt. Statutory changes necessary to reconcile the appropriations made in the feed bill and other changes are drafted into separate budget bills. These bills are prepared according to subject area.

### **Provisions**

#### ***Arizona Department of Administration (ADOA)***

1. Requires ADOA to administer a three-year competitive grant program that provides an interoperability software technology solution to support rural hospitals, health care providers and urban trauma centers to further treatment care coordination with a focus on reducing public and private health care costs and unnecessary transportation costs. (Sec. 5)
2. Directs ADOA to award the first grant by December 31, 2022. (Sec. 5)
3. Requires AHCCCS to work with ADOA to supplement the grant monies by identifying and applying to receive federal matching monies. (Sec. 5)
4. Requires the grant program to enable the implementation of an interoperability software technology solution that is shared by hospitals and health care providers to benefit patients before and after a patient is discharged from the provider's care. (Sec. 5)
5. Asserts that the software be made available to rural hospitals, health care providers and urban trauma centers by enabling a hospital's electronic medical records system to interface with other electronic medical records systems and facilitate increased communication between hospital staff and providers that use different or distinctive online platforms and information systems when treating patients. (Sec. 5)
6. Outlines standards for ADOA to use to award grants for an interoperability software technology solution. (Sec. 5)
7. Stipulates that each grant recipient must demonstrate proof of veteran employment. (Sec. 5)
8. Outlines procedures and reporting requirements for grant recipients. (Sec. 5)
9. Defines terms. (Sec. 5)
10. Repeals the 3-year competitive health care interoperability grant program by July 1, 2026. (Sec. 6)

***Behavioral Health Care Provider Loan Repayment Program (Program)***

11. Establishes the Program within DHS to pay off portions of educational loans taken out by specified behavioral health care providers and nurses. (Sec. 1)
12. Requires DHS to prescribe application and eligibility requirements. (Sec. 1)
13. Prescribes eligibility requirements for Program applicants. (Sec. 1)
14. Requires an applicant who is a physician to complete a professional residency or certification program in behavioral health in addition to meeting the prescribed eligibility requirements. (Sec. 1)
15. Requires behavioral health care providers or nurses participating in the Program to initially contract with DHS to provide services for at least two years. (Sec. 1)
16. States that in making recommendations for the Program, DHS must give priority to applicants intending to practice in the Arizona State Hospital, a behavioral health residential facility or a secure behavioral health residential facility in Arizona. (Sec. 1)
17. Subjects all loan repayment contract obligations to available monies and legislative appropriations. (Sec. 1)
18. Allows DHS to cancel or suspend a loan repayment contract based on unavailability of monies for the Repayment Program. (Sec. 1)
19. Stipulates that DHS is not liable for any claims, actual damages or consequential damages arising out of cancellation or suspension of a contract. (Sec. 1)
20. Clarifies that DHS is not prevented from encumbering an amount that is sufficient to ensure payment of each behavioral health care provider loan for the services rendered during a contract period. (Sec. 1)
21. Specifies that loan awards are limited to the amount of principal, interest and related expenses of educational loans and are capped at \$50,000 in the first two years of service and \$25,000 for subsequent years. (Sec. 1)
22. States that a participant in the Program who breaches the loan repayment contract by failing to begin or to complete the obligated services is liable for liquidated damages in an amount equivalent to the amount that would be owed for default as determined and authorized by DHS. (Sec. 1)
23. Allows DHS to waive the liquidated damages if it determined that death or permanent physical disability accounted for the failure of the participant to fulfill the contract. (Sec. 1)
24. Permits DHS to prescribe additional conditions for default, cancellation, waiver or suspension. (Sec. 1)
25. Specifies that notwithstanding the powers and duties of the Attorney General, DHS may retain legal counsel and commence actions that are necessary to collect loan repayments and charges if there is a default or breach of a contract. (Sec. 1)
26. Allows DHS to use monies to develop programs such as resident-to-service loan repayment and employer recruitment assistance to increase participation in the Program. (Sec. 1)
27. Permits DHS to use private donations, grants and federal monies to implement, support, promote or maintain the Program. (Sec. 1)

**Arizona Department of Health Services (DHS)**

28. As session law, outlines DHS distributions for accelerated nursing programs. (Sec. 18)
29. As session law, outlines standards that a university must demonstrate in order to receive funding for accelerated nursing programs. (Sec. 18)
30. As session law, requires universities receiving funding for accelerated nursing programs to submit a report of the following to DHS:
  - a) Number of students receiving a scholarship;
  - b) Number of nurses currently completing the four-year service commitment; and
  - c) Number of students who have reimbursed the university. (Sec. 18)
31. As session law, requires DHS annually on October 1st, to compile the information and transmit a report to JLBC and the Governor's Office of Strategic Planning and Budgeting that includes the totally funding distributions by each university. (Sec. 18)
32. As session law, exempts county expenditures for restoration to competency treatment from the county expenditure limitation. (Sec. 20)
33. As session law, allows Health Services Lottery Fund monies to be used for the purposes specified in the FY 2023 General Appropriations Act. (Sec. 22)

**Arizona Health Care Cost Containment System (AHCCCS)**

34. Expands AHCCCS eligibility to women less than one year postpartum with a family income not exceeding 150% of the federal poverty level. (Sec. 2)
35. Requires, subject to CMS approval and rules adopted by AHCCCS, chiropractic services performed by a chiropractor and ordered by a primary care physician or primary care practitioner to be included as an AHCCCS covered service. (Sec. 3)
36. Allows the primary care physician or primary care practitioner to initially order up to 20 visits annually that include treatment and request authorization for additional chiropractic services in the same year if medically necessary. (Sec. 3)
37. Forbids monies from the Hospital Assessment Fund to be used in providing chiropractic services. (Sec. 3)
38. As session law, requires, by December 31, 2023, AHCCCS to transfer to the counties any portion necessary to comply with the Patient Protection and Affordable Care Act regarding the counties' proportional share of this state's contribution. (Sec. 16)
39. As session law, allows, for the contract year beginning October 1, 2022 and ending September 30, 2023, AHCCCS to continue the risk contingency rate settings for all managed care organizations (MCO) and funding for all MCO administrative funding levels that were imposed for the contract year beginning October 1, 2010 and ending September 30, 2011. (Sec. 21)

**Arizona Health Innovation Trust Fund (Trust Fund)**

40. Establishes the Trust Fund to be administered by the State Treasurer as a trustee. (Sec. 4)
41. States that the Trust Fund is a permanent endowment fund consisting of monies appropriated by the Legislature, earnings from the Trust Fund and gifts or grants donated or given to the Trust Fund. (Sec. 4)
42. Stipulates that monies in the Trust Fund are continuously appropriated and exempt from lapsing. (Sec. 4)
43. Directs the State Treasurer to accept, separately account for and hold in trust any Trust Fund monies deposited in the State Treasury and to not comingle the Trust Fund monies with other monies in the State Treasury except for investment purposes. (Sec. 4)

44. Mandates the State Treasurer to invest and divest any Trust Fund monies deposited in the State Treasury and requires monies earned from interest and investment income to be credited to the Trust Fund. (Sec. 4)
45. Instructs the State Treasurer to annually allocate 4% of the monies in the Trust Fund to an entity that:
  - a) Is a qualified and charitable organization under 501(c)(3) of the U.S. Internal Revenue Code for federal income tax purposes;
  - b) Provides entrepreneurial education, support and mentoring to persons in the health innovation and health care delivery sectors in Arizona;
  - c) Provides workforce development programs that supports the talent requirements of employers in the health innovation and health sectors in Arizona;
  - d) Provides programs supporting the development and commercialization of health innovation by Arizona based businesses that employ no more than 100 employees; and
  - e) Has entered into an endowment agreement with the State Treasurer including investment procedures, maturity timelines and other requirements including how distributions from the Trust Fund are used and the social and economic impact of the use. (Sec. 4)
46. Requires, annually on December 31, the entity to submit a report prescribed by the Treasurer to the Governor, the President of the Senate, the Speaker of the House of Representatives and the State Treasurer and to submit a copy of the report to the Secretary of State. (Sec. 4)

**Counties**

47. As session law, sets the annual county Arizona Long Term Care System (ALTCS) contributions for FY 2023 at \$352.7 million and:
  - a) Outlines each county's contribution;
  - b) Requires the State Treasurer to recover the cost of any funding that was not provided; and
  - c) Requires the State Treasurer to deposit monies received into the ALTCS fund. (Sec. 14)
48. As session law, requires the counties' share of the state's contribution to comply with federal maintenance of effort requirements. (Sec. 14)
49. As session law, sets the county acute care contributions at \$44,917,500 and:
  - a) Outlines each county's contribution;
  - b) Outlines payment processes and requirements;
  - c) Requires the State Treasurer to recover the cost of any funding that was not provided by a county from other funds owed to that county, excluding the Highway User Revenue Fund; and
  - d) States that the Legislature intends that the Maricopa County contribution be reduced in each subsequent year according to changes in the GDP price deflator. (Sec. 17)
50. As session law, continues to exclude the Proposition 204 administration costs from the county expenditure limitations. (Sec. 19)

**Disproportionate Share Hospital (DSH) Payments**

51. As session law, modifies distribution of FY 2021 private DHS payments. (Sec. 7,13)
52. As session law, sets the annual DSH payment allotment for the Maricopa County Special Health Care District (District) at \$113,818,500 for FY 2023 and:
  - a) Requires the District to provide a certified public expense form for the amount of qualifying DSH expenditures made to AHCCCS by May 1, 2023 for all state plan years as required by the AHCCCS Section 1115 waiver;

<input type="checkbox"/> Prop 105 (45 votes) <input type="checkbox"/> Prop 108 (40 votes) <input type="checkbox"/> Emergency (40 votes) <input type="checkbox"/> Fiscal Note
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- b) States that if the certification is equal to or less than \$113,818,500 and AHCCCS determines the revised amount is correct, AHCCCS must:
    - i. Notify the Governor and the Legislature; and
    - ii. Distribute \$4,202,300 to the District and deposit the balance in the state GF.
  - c) States that if the certification is less than \$113,818,500 and AHCCCS determines the revised amount is not correct, AHCCCS must:
    - i. Notify the Governor and the Legislature; and
    - ii. Deposit the total amount in the state GF.
  - d) Provides that if the certification is greater than \$113,818,500, AHCCCS must:
    - i. Distribute \$4,202,300 to the District; and
    - ii. \$74,696,800 of the federal financial participation in the state GF; and
  - e) Allows AHCCCS to make additional DSH payments to the District pursuant to statute. (Sec. 15)
53. As session law, sets the annual DHS payment allotment to the Arizona State Hospital (ASH) at \$28,474,900 for FY 2023 and:
- a) Requires ASH to provide a certified public expense form for the amount of qualifying DSH expenditures made to AHCCCS by March 31, 2023;
  - b) Directs AHCCCS to:
    - i. Assist ASH in determining the amount of qualifying DSH expenditures; and
    - ii. Deposit the entire amount of federal financial participation in the state GF.
  - c) States that if the certification is less than \$28,474,900, AHCCCS must:
    - i. Notify the Governor and the Legislature; and
    - ii. Deposit the entire amount of federal financial participation in the state GF; and
  - d) Requires the certified public expense form to contain the total amount of qualifying DSH expenditures and the amount limited by federal law. (Sec. 15)
54. As session law, establishes the annual DSH payment allotment for private qualifying DSH hospitals at \$884,800 for FY 2023, consistent with the appropriation and the terms of the State plan and:
- a) Limits payments to hospitals that either:
    - i. Meet the mandatory definition of DSH qualifying hospital under Section 1923 of the Social Security Act; or
    - ii. Are located in Yuma County and contain at least 300 beds. (Sec. 15)
55. As session law, outlines the following order of DSH payment allotments for private qualifying hospitals once the above-mentioned DSH distributions are made. (Sec. 15)

**Miscellaneous**

- 56. Expands the definition of *primary care practitioner* to include a certified nursed midwife and specifies that this does not expand the scope of practice for certified nurse midwives. (Sec. 2)
- 57. As session law, accelerates the transfer of the Psychiatric Security Review Board to the Superior Court from July 1, 2023, to January 1, 2023. (Sec. 8,9,10,11, 12)
- 58. As session law, provides rulemaking exemptions for the Health Care Investment Fund Assessment. (Sec. 23)
- 59. As session law, directs AHCCCS to prescribe qualifying conditions under which chiropractic services may be used and provider qualifications for chiropractic services. (Sec. 24)
- 60. As session law, requires AHCCCS to report on chiropractic service utilization and any identified cost savings. (Sec. 24)

61. As session law, requires AHCCCS, by January 21, 2027, to submit a report of its findings regarding chiropractic services to the Governor, Legislature and a copy to the Secretary of State. (Sec. 24)
62. As session law, repeals the AHCCCS chiropractic reporting requirements on July 1, 2027. (Sec. 24)
63. As session law, exempts DHS from rulemaking requirements for FY 2023 for the purposes of addressing air ambulance service medical staffing. (Sec. 25)
64. As session law, continues to state that it is the intent of the Legislature for FY 2023 that AHCCCS implement a program within its available appropriation. (Sec. 26)
65. As session law, conditions the enactment of the AHCCCS eligibility expansion on the Centers of Medicare and Medicaid Services (CMS) authorizing AHCCCS to either redetermine the eligibility of members who are less than one year postpartum and under 133% FPL or use another methodology that enables AHCCCS to provide coverage within the existing appropriation by July 1, 2023. (Sec. 27)
66. As session law, directs the AHCCCS Director to notify the Director of the Arizona Legislative Council in writing of the date the AHCCCS eligibility CMS condition was met or not met by July 1, 2023. (Sec. 27)