

State of Arizona
Senate
Forty-fifth Legislature
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2002

CHAPTER 217

SENATE BILL 1360

AN ACT

AMENDING SECTIONS 3-204, 3-205, 3-1083, 3-1085, 41-803, 41-2501, 41-2706 AND 41-2752, ARIZONA REVISED STATUTES; RELATING TO THE COTTON RESEARCH AND PROTECTION COUNCIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-204, Arizona Revised Statutes, is amended to
3 read:

4 3-204. Summary abatement of imminently dangerous nuisance;
5 procedure; expense; lien; public sale; reimbursement
6 costs and penalties to state for certain abatements

7 A. If, in the opinion of the director, the danger to the agricultural
8 and horticultural industry of the state is imminent if the nuisance caused
9 by a plant or thing is not speedily abated or suppressed, and if he finds it
10 is practical to summarily abate the nuisance, either by the destruction of
11 the plant or thing or by the treatment thereof so as to destroy or eradicate
12 the crop pest or disease without actually destroying the plant or thing, the
13 director shall in writing direct the owner or person in charge of the
14 nuisance, if he is found in the county, forthwith and at his expense to abate
15 and suppress the nuisance in the manner provided in the written direction.
16 If the owner or person in charge fails or neglects to comply with the
17 direction for a period of five days after the date on which the direction was
18 delivered to or served upon him, then the director shall summarily abate the
19 nuisance in the manner specified in the written direction.

20 B. If the owner or person in charge or control of the nuisance is a
21 nonresident of the state or cannot, after reasonable diligence by the
22 director, be found within the county where the nuisance exists, the director
23 shall publish the notice and the direction one time in a newspaper published
24 in the county, and shall post a copy at, on or in the immediate vicinity of
25 the nuisance, and after seven days from the first publication and posting,
26 the director shall abate the nuisance in the manner specified in the
27 direction.

28 C. If the nuisance is abated by the director the expense shall be
29 borne by the state, but, when the abatement does not involve the destruction
30 of the plant or thing and it has some value after the crop pest or disease
31 has been eradicated, then the state shall have a first claim and lien thereon
32 for the payment of expenses incurred in the abatement of the nuisance.

33 D. The director shall notify the owner or person in charge or control
34 of the nuisance of the amount of the expenses, and that unless the amount is
35 paid within ten days after the date of service of the notice upon the owner
36 or person in charge, the plant or thing will be sold at public sale, and the
37 proceeds, or so much thereof as may be necessary, applied to the payment of
38 the expenses. The notice shall be personally served or posted as required
39 in this section for notices to abate.

40 E. If the owner or person in charge of the plant or thing fails to pay
41 the expenses within the time specified in the notice, the director shall give
42 public notice of the time and place of sale with a description of the plant
43 or thing to be sold, and the amount of expenses against it, which shall
44 include costs of publication, posting and service of notice. The notice of

1 sale shall be published and posted as provided in this section for the
2 publication and posting of direction to suppress the nuisance.

3 F. The owner or person in charge of a plant or thing constituting the
4 nuisance may waive in writing the service of all directions and notices in
5 connection with the abatement or sale thereof.

6 G. If the director is required to abate the nuisance of cotton or
7 cotton stubble which is not destroyed before a date established by the
8 director or is required to abate the nuisance of cotton planted before a date
9 established by the director, unless the director waives such dates due to
10 variations in weather conditions, following the refusal by the owner or
11 person in charge or control of the nuisance to do so, the owner or person in
12 charge or control of the nuisance shall reimburse the department for the
13 actual costs of the state's abatement of the nuisance. An injunction shall
14 not be granted to stay this state from abating the nuisance. To collect the
15 costs of reimbursement, the director may either request reimbursement from
16 the cotton research and protection council under programs of the council to
17 abate cotton fields or from the owner or person in charge. If the actual
18 costs of abatement are not paid within ten days after the owner or person in
19 charge receives notice of the amount of the costs, the director may impose
20 a penalty of fifty per cent of the costs of abatement and may prepare and
21 file or record in the office of the county recorder of the county where the
22 land is situated a notice of lien, setting forth the amount of the unpaid
23 costs, the amount of the penalty and the name of the owner or person in
24 charge. Upon such recording, the amount required to be reimbursed becomes
25 a lien on the land subordinate only to any lien for state and local
26 taxes. The director may issue a notice of abatement penalty to be applied
27 to any rebate authorized pursuant to section 3-1083, subsection B, paragraph
28 4 and section 3-1087, subsection B. All penalties collected under this
29 section shall be deposited in the cotton research and protection council
30 abatement revolving fund established by section 3-1085.

31 Sec. 2. Section 3-205, Arizona Revised Statutes, is amended to read:

32 3-205. Abatement of nuisance not imminently dangerous;
33 procedure; lien; foreclosure; release of lien;
34 reimbursement costs and penalties to state for certain
35 abatements

36 A. If the director believes the danger to the agricultural and
37 horticultural industry is not imminent, or if impractical for any reason to
38 summarily abate the nuisance, as described in sections 3-203, 3-204, 3-206
39 and 3-207, the direction shall not require summary destruction or
40 eradication, but shall set forth the measures required to be taken by the
41 owner or person in charge to control, suppress or eradicate the danger, and
42 shall require the person, at his expense, to take and comply with the
43 measures specified in the direction and subsequent directions.

44 B. The directions shall be made, given and served as prescribed for
45 summary abatement, and if they are not complied with, the director may

1 proceed as provided by the directions, and the expense shall be charged
2 against the state.

3 C. If the plant or thing constituting the nuisance consists only of
4 personalty, and is not attached to land or contained in a building,
5 enclosure, vehicle or place belonging to the person, the state shall have the
6 same lien and it is enforceable in the same manner as provided for summary
7 abatement of the nuisance under section 3-204.

8 D. If the plant or thing is attached to land, or contained in a
9 building, enclosure or vehicle which is the property of the person, then the
10 lien shall also attach to the land, building, enclosure or vehicle, and the
11 director shall prepare and file in the office of the county recorder where
12 the property is situated a notice of the lien, setting forth the amount and
13 the name of the owner or person in charge, and stating that the amount of the
14 lien shall be paid within thirty days from filing the notice, or otherwise
15 the property will be subjected to payment thereof.

16 E. The lien shall be prior to all other liens against the property
17 except liens for state and county taxes. If the amount of the lien is not
18 paid within the thirty days, the county attorney shall, on written request
19 of the director, foreclose the lien against the property impressed therewith
20 as other liens are foreclosed.

21 F. Upon satisfaction of the lien, the director shall issue a release
22 of the lien to the person against whom the lien was claimed. Such release
23 shall be a document in a form as specified in section 11-480.

24 G. If the director is required to abate the nuisance of cotton or
25 cotton stubble which is not destroyed before a date established by the
26 director or is required to abate the nuisance of cotton planted before a date
27 established by the director, unless the director waives such dates due to
28 variations in weather conditions, following the refusal by the owner or
29 person in charge or control of the nuisance to do so, the owner or person in
30 charge or control of the nuisance shall reimburse the department for the
31 actual costs of the state's abatement of the nuisance. In addition, a
32 penalty of fifty per cent of the costs of the state's abatement of the
33 nuisance shall be imposed. All penalties shall be deposited in the cotton
34 research and protection council ~~abatement revolving~~ fund established by
35 section 3-1085. An injunction shall not be granted to stay this state from
36 abating the nuisance. To collect the costs of reimbursement, the director
37 may either request reimbursement from the cotton research and protection
38 council under programs of the council to abate cotton fields or from the
39 owner or person in charge. If the actual costs of abatement are not paid
40 within ten days after the owner or person in charge receives notice of the
41 amount of the costs, the department may charge one hundred fifty per cent of
42 the costs and may prepare and file or record in the office of the county
43 recorder of the county where the land is situated a notice of lien, setting
44 forth the amount of the unpaid costs and the name of the owner or person in
45 charge, and upon such recording, the amount required to be reimbursed becomes

1 a lien on the land subordinate only to any lien for state and local
2 taxes. The director may issue a notice of abatement penalty to be applied
3 to any rebate authorized pursuant to section 3-1083, subsection B, paragraph
4 4 and section 3-1087, subsection B.

5 Sec. 3. Section 3-1083, Arizona Revised Statutes, is amended to read:
6 3-1083. Council powers and duties

7 A. The council shall:

8 1. Receive and disburse monies to be used in administering the
9 provisions of this article.

10 2. Meet at least once each calendar quarter and more frequently on the
11 call of the chairman or by five members of the council.

12 3. Annually elect a chairman from among its members.

13 4. Elect a secretary and treasurer from among its members.

14 5. Establish an executive committee consisting of the chairman,
15 secretary and treasurer. The executive committee shall act in accordance
16 with the direction received from the council or, if necessary, the executive
17 committee shall act and bring the matter before the full council at the next
18 regular meeting of the council for review and ratification.

19 6. Provide for ~~an annual~~ A TRIENNIAL audit of its accounts by a
20 qualified public accounting firm AND ADDITIONAL AUDITS AS THE COUNCIL MAY
21 REQUIRE and make an annual financial statement available to any producer and
22 the auditor general on request.

23 7. Keep and maintain a permanent record of its proceedings and make
24 these records available for public inspection for any lawful purpose.

25 8. Prepare an annual report of its activities, receipts and
26 expenditures. The report shall be submitted to the governor, other state
27 officers as the council determines and other persons in the cotton industry
28 in this state as may be appropriate. Copies of the annual report shall be
29 available to any interested cotton producer and the general public on
30 request.

31 9. Organize and administer any referendum called under subsection C,
32 paragraph 6 of this section.

33 10. Reimburse the department for costs incurred in the abatement of
34 cotton fields under section 3-204, subsection G and section
35 3-205, subsection G from monies authorized for abatement of cotton fields
36 pursuant to section 3-1087, subsection B, if monies are available.

37 B. The council may authorize or contract for any of the following
38 programs:

39 1. Those research programs that are related to cotton production or
40 its protection, INCLUDING COTTON SEED BREEDING OR OTHER RESEARCH PROGRAMS TO
41 DEVELOP GERMPLOASM.

42 2. The execution of nuisance abatements related to cotton protection
43 as provided for under sections 3-204 and 3-205.

44 3. Programs of AFLATOXIN CONTROL AND cotton pest eradication.

1 4. A program to refund collected fees to cotton producers to provide
2 an incentive to abate cotton fields to be administered in cooperation with
3 the department.

4 5. Any other programs that the council deems to be appropriate for
5 furthering the purposes of this article.

6 C. The council may:

7 1. Adopt rules necessary to promptly and effectively administer the
8 provisions of this article.

9 2. AWARD GRANTS OF MONIES, PROPERTY, SERVICES OR OTHER ASSISTANCE TO
10 PUBLIC OR PRIVATE RECIPIENTS FOR THE EXPRESS PURPOSE OF FURTHERING THE
11 OBJECTIVES OF THIS ARTICLE, INCLUDING RESEARCH PROGRAMS RELATED TO COTTON
12 PROTECTION AND PRODUCTION AUTHORIZED BY THE COUNCIL.

13 ~~2.~~ 3. Accept GRANTS AND donations of monies, property, services or
14 other assistance from public or private sources for the express purpose of
15 furthering the objectives of this article.

16 ~~3.~~ 4. Investigate and prosecute in the name of this state any action
17 or suit to enforce the collection or ensure payment of the fees authorized
18 and to sue and be sued in the name of the council.

19 5. BUY AND SELL SEED AND OTHER PRODUCTS USED IN THE COUNCIL'S
20 AFLATOXIN CONTROL PROGRAM, EXTEND CREDIT IN CONNECTION WITH THE SALE AND
21 DISTRIBUTION OF TREATED SEED AND OTHER PRODUCTS, COLLECT AND ENFORCE DEBTS
22 OR OBLIGATIONS WITH RESPECT TO EXTENDED CREDIT AND TAKE A SECURITY INTEREST
23 IN COLLATERAL OF ALL KINDS, INCLUDING REAL AND PERSONAL PROPERTY TO SECURE
24 THE CREDIT.

25 ~~4.~~ 6. Cooperate with any local, state and national organizations or
26 agencies engaged in activities similar to or related to those of the council
27 and enter into contracts with these organizations or agencies for carrying
28 on joint programs.

29 7. ACQUIRE AND PROTECT PATENTS, LICENSES OR CERTIFICATES OF PROTECTION
30 FOR PLANT VARIETIES RESULTING FROM SEED BREEDING OR OTHER PROGRAMS AUTHORIZED
31 BY THE COUNCIL AND GRANT LICENSES TO USE INTELLECTUAL PROPERTY RIGHTS HELD
32 BY THE COUNCIL.

33 ~~5.~~ 8. Act jointly and in cooperation with this state or any other
34 state or the federal government in the administration of any program deemed
35 by the council as beneficial to the cotton industry of this state.

36 ~~6.~~ 9. Refer to the cotton producers in this state for an advisory
37 vote the question of establishing, continuing or discontinuing any program
38 authorized by this article.

39 ~~7.~~ 10. Expend monies for public relations programs that are organized
40 to promote the cotton industry or agriculture in this state.

41 11. PURCHASE MOTOR VEHICLES FOR THE ADMINISTRATION OF ITS OWN MOTOR
42 VEHICLE FLEET AND PROVIDE FOR ITS OPERATION AND MAINTENANCE.

43 D. No member may serve in the same executive office of the council for
44 more than three consecutive years.

1 Sec. 4. Section 3-1085, Arizona Revised Statutes, is amended to read:
2 3-1085. Cotton research and protection council fund; use by
3 director

4 A. The cotton research and protection council ~~abatement revolving fund~~
5 ~~is established. The monies in the fund shall be used by the council for the~~
6 ~~abatement of unplowed cotton fields and for those purposes provided for under~~
7 ~~the abatement provisions of sections 3-204 and 3-205. FOR THE PURPOSE OF~~
8 ~~ADMINISTERING THIS ARTICLE. THE COUNCIL SHALL ADMINISTER THE FUND. THE FUND~~
9 ~~CONSISTS OF PENALTIES COLLECTED PURSUANT TO SECTIONS 3-204 AND 3-205, FEES~~
10 ~~AND OTHER INCOME COLLECTED PURSUANT TO THIS ARTICLE.~~

11 B. The director may request the use of fund monies ~~in the furtherance~~
12 ~~of the authority under sections 3-204 and 3-205. FOR THE ABATEMENT OF UPLAND~~
13 ~~COTTON FIELDS AND FOR THOSE PURPOSES PROVIDED FOR UNDER THE ABATEMENT~~
14 ~~PROVISIONS OF SECTIONS 3-204 AND 3-205. Monies distributed pursuant to this~~
15 ~~subsection shall be repaid to the fund within one calendar year after their~~
16 ~~disbursement, but the council may extend the repayment period at its~~
17 ~~discretion and set the terms and conditions for repayment.~~

18 C. The council may deposit monies from fees assessed pursuant to
19 section 3-1086 in the fund. The council shall deposit monies from penalties
20 collected pursuant to section 3-204 IN THE FUND.

21 D. The monies in the fund may be invested pursuant to section 35-313.
22 Interest earned on these monies shall be credited to the fund.

23 Sec. 5. Section 41-803, Arizona Revised Statutes, is amended to read:
24 41-803. Operation of state motor vehicle fleet; energy
25 conservation; alternative and clean burning fuels;
26 definitions

27 A. The director shall operate a motor vehicle fleet for all state
28 owned motor vehicles for the purpose of providing transportation for state
29 officers and employees, except those officers and employees of any agency or
30 department excluded by subsection E of this section. The director shall make
31 fleet motor vehicles available to state agencies and departments on the
32 request of the chosen representative for that agency or department.

33 B. The director may adopt rules necessary for the administration of
34 the motor vehicle fleet.

35 C. The director shall provide for detailed cost, operation,
36 maintenance, mileage and custody records for each state owned vehicle. On
37 or before August 1 of each year, all state agencies and departments,
38 including those listed in subsection E of this section, shall make
39 information available to the director regarding vehicle cost, operation,
40 maintenance and mileage and other information as established by the director
41 in policies and procedures for the purposes of the report prescribed in
42 subsection R of this section.

43 D. Each state department and agency shall pay from available monies
44 the cost of motor vehicle services received from the state motor vehicle
45 fleet at a rate determined by the director.

1 E. The following departments and agencies are excluded from
2 participation in the state motor vehicle fleet:

- 3 1. Department of public safety.
- 4 2. Department of transportation.
- 5 3. Department of economic security.
- 6 4. State department of corrections.
- 7 5. Universities and community colleges.
- 8 6. Arizona state schools for the deaf and the blind.
- 9 7. COTTON RESEARCH AND PROTECTION COUNCIL.

10 F. The director shall appoint a person in the office of the director
11 who is the state motor vehicle fleet alternative fuel and clean burning fuel
12 coordinator. The coordinator shall develop, implement, document, monitor and
13 modify as necessary a statewide alternative fuels plan in consultation with
14 all state agencies and departments that are subject to the alternative fuel
15 and clean burning fuel requirements prescribed in this section or any other
16 law. The approval of the coordinator is required for all acquisitions of
17 vehicles pursuant to this section, except for acquisitions by community
18 college districts.

19 G. Purchases of all new motor vehicles that primarily operate in
20 counties with a population of more than two hundred fifty thousand persons
21 and that have a gross vehicle weight of eight thousand five hundred pounds
22 or less, including those agency motor vehicle fleets listed in subsection E
23 of this section, shall meet the following minimum requirements for vehicles:

- 24 1. For model year 1997, ten per cent of new motor vehicles purchased
25 shall be capable of operating on alternative fuels.
- 26 2. For model year 1998, fifteen per cent of new motor vehicles
27 purchased shall be capable of operating on alternative fuels.
- 28 3. For model year 1999, twenty-five per cent of new motor vehicles
29 purchased shall be capable of operating on alternative fuels.
- 30 4. For model year 2000, fifty per cent of new motor vehicles purchased
31 shall be capable of operating on alternative fuels.
- 32 5. For model year 2001 and all subsequent model years, seventy-five
33 per cent of new motor vehicles purchased shall be capable of operating on
34 alternative fuels or clean burning fuels.

35 H. Purchases of new alternative fuel and clean burning fuel vehicles
36 that have a gross vehicle weight of eight thousand five hundred pounds or
37 less shall meet the following minimum requirements for vehicles that
38 primarily operate in counties with a population of more than one million two
39 hundred thousand persons:

- 40 1. For model year 2000, forty per cent of new alternative fuel and
41 clean burning fuel vehicles purchased shall comply with the United States
42 environmental protection agency standards for low emission vehicles pursuant
43 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

1 2. For model year 2001, fifty per cent of new alternative fuel and
2 clean burning fuel vehicles purchased shall comply with the United States
3 environmental protection agency standards for low emission vehicles pursuant
4 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

5 3. For model year 2002, sixty per cent of new alternative fuel and
6 clean burning fuel vehicles purchased shall comply with the United States
7 environmental protection agency standards for low emission vehicles pursuant
8 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

9 4. For model year 2003, seventy per cent of new alternative fuel and
10 clean burning fuel vehicles purchased shall comply with the United States
11 environmental protection agency standards for low emission vehicles pursuant
12 to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

13 I. The coordinator may waive the requirements of subsection G of this
14 section for any state agency on receipt of certification supported by
15 evidence acceptable to the coordinator that:

16 1. The agency's vehicles will be operating primarily in an area in
17 which neither the agency nor a supplier has established or can reasonably be
18 expected to establish a central refueling station for alternative fuels or
19 clean burning fuels.

20 2. The agency is unable to acquire or be provided equipment or
21 refueling facilities necessary to operate vehicles using alternative fuels
22 or clean burning fuels at a projected cost that is reasonably expected to
23 result in net costs of no greater than thirty per cent more than the net
24 costs associated with the continued use of traditional gasoline or diesel
25 fuels measured over the expected useful life of the equipment or facilities
26 supplied. Applications for waivers shall be filed with the department of
27 commerce energy office pursuant to section 41-1516.01. An entity that
28 receives a waiver pursuant to this section shall retrofit fleet heavy-duty
29 diesel vehicles with a gross vehicle weight of eight thousand five hundred
30 pounds or more that were manufactured in or before model year 1993 and that
31 are the subject of the waiver with a technology that is effective at reducing
32 particulate emissions at least twenty-five per cent or more and that has been
33 approved by the United States environmental protection agency pursuant to the
34 urban bus engine retrofit/rebuild program. The entity shall comply with the
35 implementation schedule pursuant to section 49-555.

36 J. The department of administration, through the coordinator, may
37 acquire or be provided equipment or refueling facilities necessary to operate
38 such vehicles using alternative fuels or clean burning fuels:

39 1. By purchase or lease as authorized by law.

40 2. By gift or loan of the equipment or facilities.

41 3. By gift or loan of the equipment or facilities or any other
42 arrangement pursuant to a service contract for the supply of alternative
43 fuels or clean burning fuels.

44 K. The coordinator and the department of commerce energy office shall
45 develop and implement a vehicle fleet energy conservation plan for the

1 purposes of reducing vehicle fuel consumption and to encourage and
2 progressively increase the use of alternative fuels and clean burning fuels
3 in state owned vehicles. The plans shall include:

4 1. A timetable by which fleet vehicles shall be replaced with vehicles
5 that have demonstrated high fuel economy estimates within their vehicle
6 class.

7 2. A timetable for increasing the use of alternative fuels and clean
8 burning fuels in fleet vehicles either through purchase or conversion. The
9 timetable shall reflect the following schedule and percentage of vehicles
10 which operate on alternative fuels or clean burning fuels:

11 (a) Not less than forty per cent of the total fleet by December 31,
12 1995, except for community college districts. Community college districts
13 shall comply by December 31, 2002.

14 (b) Not less than ninety per cent of the total fleet operating
15 primarily in counties with populations exceeding one million two hundred
16 thousand persons according to the most recent federal decennial census by
17 December 31, 1997, except for community college districts. Community college
18 districts shall comply by December 31, 2004.

19 3. Options for increasing, whenever possible, the use of vehicles that
20 have the capability to use available alternative fuels or clean burning
21 fuels, or vehicles that may be economically converted, if needed, for the use
22 of alternative fuels or clean burning fuels.

23 4. Options for the use of demonstrated innovative technologies that
24 promote energy conservation and reduced fuel consumption.

25 5. Methods that promote efficient trip planning and state vehicle use.

26 6. Car pooling and van pooling for agency employees for commuting and
27 job related travel.

28 L. The coordinator shall identify specific vehicle models within each
29 vehicle class that would meet the demands of each state agency and that
30 demonstrate a high degree of fuel economy. Vehicle classes and fuel economy
31 comparisons shall be based on United States department of energy and United
32 States environmental protection agency data pursuant to title 15 United
33 States Code sections 2003 through 2006. For the use of an alcohol fueled
34 vehicle, the state agency shall demonstrate to the director that the fuel for
35 the vehicle is available within a ten mile radius of the primary home base
36 of that vehicle.

37 M. Subsections G, H, I, J, K, L, N, O and P of this section do not
38 apply to the purchase or lease of the following:

39 1. A vehicle to be used primarily for criminal law enforcement.

40 2. A motorcycle.

41 3. An all-terrain vehicle.

42 4. An ambulance.

43 5. A fire truck, a fire engine or any other fire suppression
44 apparatus.

1 N. Any contract for conversion of vehicles to alternative fuels
2 pursuant to this section shall be entered into by competitive sealed
3 proposals pursuant to section 41-2534.

4 O. If everything else is equal, when contracting for vehicles to
5 satisfy the requirements prescribed in this section, preference shall be
6 given to vehicles with the lowest emissions levels.

7 P. The departments and agencies excluded from participation in the
8 state motor vehicle fleet pursuant to subsection E of this section shall
9 develop and implement a program for alternative fuels and clean burning fuels
10 and fuel economy for their motor vehicle fleets substantially similar to the
11 standards set forth in this section, and the program shall be submitted to
12 the coordinator for review.

13 Q. All agencies, including those listed in subsection E of this
14 section, shall comply with the plan developed and implemented by the
15 coordinator pursuant to subsection F of this section.

16 R. On or before November 1 of each year, the director shall submit a
17 report to the governor, the speaker of the house of representatives, the
18 president of the senate, the governor's office of strategic planning and
19 budgeting and the joint legislative budget committee concerning the use of
20 alternative fuels and clean burning fuels in the state motor vehicle
21 fleet. The report shall include at least the following:

- 22 1. The number of state fleet vehicles.
- 23 2. The number of state fleet vehicles used primarily in Maricopa
24 county.
- 25 3. The number of state fleet vehicles capable of using alternative
26 fuels or clean burning fuels.
- 27 4. Progress on compliance with federal and state guidelines mandating
28 the conversion of state fleet vehicles to alternatively fueled vehicles.
- 29 5. Alternative fuels and clean burning fuels usage data.
- 30 6. Information received from state agencies pursuant to subsection C
31 of this section.
- 32 7. Information gathered from local offices of federal agencies
33 regarding progress made toward implementing the federal mandates relating to
34 the conversion of motor vehicle fleets to alternative fuels or clean burning
35 fuels pursuant to subsection G of this section.

36 S. For the purposes of this section:

- 37 1. "Alternative fuels" has the same meaning prescribed in section
38 1-215.
- 39 2. "Clean burning fuels" has the same meaning prescribed in section
40 1-215.
- 41 3. "New motor vehicle" means an original equipment manufactured
42 vehicle, a converted original equipment manufactured vehicle or an original
43 equipment manufactured vehicle that will be converted.

1 Sec. 6. Section 41-2501, Arizona Revised Statutes, is amended to read:
2 41-2501. Applicability

3 A. This chapter applies only to procurements initiated after January
4 1, 1985 unless the parties agree to its application to procurements initiated
5 before that date.

6 B. This chapter applies to every expenditure of public monies,
7 including federal assistance monies except as otherwise specified in section
8 41-2637, by this state, acting through a state governmental unit as defined
9 in this chapter, under any contract, except that this chapter does not apply
10 to either grants as defined in this chapter, or contracts between this state
11 and its political subdivisions or other governments, except as provided in
12 chapter 24 of this title and in article 10 of this chapter. This chapter
13 also applies to the disposal of state materials. This chapter and rules
14 adopted under this chapter do not prevent any state governmental unit or
15 political subdivision from complying with the terms of any grant, gift,
16 bequest or cooperative agreement.

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

20 D. The Arizona board of regents, the legislative and judicial branches
21 of state government and the state compensation fund are not subject to the
22 provisions of this chapter except as prescribed in subsection E of this
23 section.

24 E. The Arizona board of regents and the judicial branch shall adopt
25 rules prescribing procurement policies and procedures for themselves and
26 institutions under their jurisdiction. The rules must be substantially
27 equivalent to the policies and procedures prescribed in this chapter.

28 F. The Arizona state lottery commission is exempt from the provisions
29 of this chapter for procurement relating to the design and operation of the
30 lottery or purchase of lottery equipment, tickets and related materials. The
31 executive director of the Arizona state lottery commission shall adopt rules
32 substantially equivalent to the policies and procedures in this chapter for
33 procurement relating to the design and operation of the lottery or purchase
34 of lottery equipment, tickets or related materials. All other procurement
35 shall be as prescribed by this chapter.

36 G. The Arizona health care cost containment system administration is
37 exempt from the provisions of this chapter for provider contracts pursuant
38 to section 36-2904, subsection A and contracts for goods and services
39 including program contractor contracts pursuant to title 36, chapter 29,
40 articles 2 and 3. All other procurement, including contracts for the
41 statewide administrator of the program pursuant to section 36-2903,
42 subsection B, shall be as prescribed by this chapter.

43 H. Arizona industries for the blind is exempt from the provisions of
44 this chapter for purchases of finished goods from members of national
45 industries for the blind and for purchases of raw materials for use in the

1 manufacture of products for sale pursuant to section 41-1972. All other
2 procurement shall be as prescribed by this chapter.

3 I. Arizona correctional industries is exempt from the provisions of
4 this chapter for purchases of raw materials, components and supplies that are
5 used in the manufacture or production of goods or services for sale entered
6 into pursuant to section 41-1622. All other procurement shall be as
7 prescribed by this chapter.

8 J. The state transportation board and the director of the department
9 of transportation are exempt from the provisions of this chapter other than
10 section 41-2586 for the procurement of construction or reconstruction,
11 including engineering services, of transportation facilities or highway
12 facilities and any other services that are directly related to land titles,
13 appraisals, real property acquisition, relocation, property management or
14 building facility design and construction for highway development and that
15 are required pursuant to title 28, chapter 20.

16 K. The Arizona highways magazine is exempt from the provisions of this
17 chapter for contracts for the production, promotion, distribution and sale
18 of the magazine and related products and for contracts for sole source
19 creative works entered into pursuant to section 28-7314, subsection A,
20 paragraph 5. All other procurement shall be as prescribed by this chapter.

21 L. The secretary of state is exempt from the provisions of this
22 chapter for contracts entered into pursuant to section 41-1012 to publish and
23 sell the administrative code. All other procurement shall be as prescribed
24 by this chapter.

25 M. The provisions of this chapter are not applicable to contracts for
26 professional witnesses if the purpose of such contracts is to provide for
27 professional services or testimony relating to an existing or probable
28 judicial proceeding in which this state is or may become a party or to
29 contract for special investigative services for law enforcement purposes.

30 N. The head of any state governmental unit, in relation to any
31 contract exempted by this section from the provisions of this chapter, has
32 the same authority to adopt rules, procedures or policies as is delegated to
33 the director pursuant to this chapter.

34 O. Agreements negotiated by legal counsel representing this state in
35 settlement of litigation or threatened litigation are exempt from the
36 provisions of this chapter.

37 P. The provisions of this chapter are not applicable to contracts
38 entered into by the department of economic security with a provider licensed
39 or certified by an agency of this state to provide child day care services
40 or with a provider of family foster care pursuant to section 8-503 or 36-554,
41 to contracts entered into with area agencies on aging created pursuant to the
42 older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code
43 sections 3001 through 3058ee) or to contracts for services pursuant to title
44 36, chapter 29, article 2.

1 Q. The department of health services may not require that persons with
2 whom it contracts follow the provisions of this chapter for the purposes of
3 subcontracts entered into for the provision of the following:

- 4 1. Mental health services pursuant to section 36-189, subsection B.
- 5 2. Services for the seriously mentally ill pursuant to title 36,
6 chapter 5, article 10.
- 7 3. Drug and alcohol services pursuant to section 36-141.
- 8 4. Domestic violence services pursuant to title 36, chapter 30,
9 article 1.

10 R. The department of health services is exempt from the provisions of
11 this chapter for contracts for services of physicians at the Arizona state
12 hospital.

13 S. Contracts for goods and services approved by the fund manager of
14 the public safety personnel retirement system are exempt from the provisions
15 of this chapter.

16 T. The Arizona department of agriculture is exempt from this chapter
17 with respect to contracts for private labor and equipment to effect cotton
18 or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2,
19 article 1. On or before September 1 each year the director of the Arizona
20 department of agriculture shall establish and announce costs for each acre
21 of cotton or cotton stubble to be abated by private contractors.

22 U. The Arizona state parks board is exempt from the provisions of this
23 chapter for purchases of guest supplies and items for resale such as food,
24 linens, gift items, sundries, furniture, china, glassware and utensils for
25 the facilities located in the Tonto natural bridge state park.

26 V. The Arizona state parks board is exempt from the provisions of this
27 chapter for the purchase, production, promotion, distribution and sale of
28 publications, souvenirs and sundry items obtained and produced for resale.

29 W. The Arizona state schools for the deaf and the blind are exempt
30 from the provisions of this chapter when purchasing products through a
31 cooperative that is organized and operates in accordance with state law if
32 such products are not available on a statewide contract and are related to
33 the operation of the schools or are products for which special discounts are
34 offered for educational institutions.

35 X. Expenditures of monies in the morale, welfare and recreational fund
36 established by section 26-153 are exempt from the provisions of this chapter.

37 Y. The state department of corrections is exempt from the provisions
38 of this chapter for purchases of food commodities to be used in the
39 preparation of meals for inmates and for the purchase of inmate store goods.
40 All other procurement shall be as prescribed by this chapter.

41 Z. Notwithstanding section 41-2534, the director of the state
42 department of corrections may contract with local medical providers in
43 counties with a population of less than four hundred thousand persons
44 according to the most recent United States decennial census for the following
45 purposes:

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

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

7 AA. The department of environmental quality is exempt from the
8 provisions of this chapter for contracting for procurements relating to the
9 water quality assurance revolving fund program established pursuant to title
10 49, chapter 2, article 5. The department shall engage in a source selection
11 process that is similar to the procedures prescribed by this chapter. The
12 department may contract for remedial actions with a single selection process.
13 The exclusive remedy for disputes or claims relating to contracting pursuant
14 to this subsection is as prescribed by article 9 of this chapter and the
15 rules adopted pursuant to that article. All other procurement by the
16 department shall be as prescribed by this chapter.

17 BB. The motor vehicle division of the department of transportation is
18 exempt from the provisions of this chapter for third party authorizations
19 pursuant to title 28, chapter 13, only if all of the following conditions
20 exist:

21 1. The division does not pay any public monies to an authorized third
22 party.

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

24 3. The director has complied with the requirements prescribed in title
25 28, chapter 13 in selecting an authorized third party.

26 CC. This section does not exempt third party authorizations pursuant
27 to title 28, chapter 13 from any other applicable law.

28 DD. The state forester is exempt from the provisions of this chapter
29 for purchases and contracts relating to wild land fire suppression and
30 pre-positioning equipment resources and for other activities related to
31 combating wild land fires and other unplanned risk activities, including
32 fire, flood, earthquake, wind and hazardous material responses. All other
33 procurement by the state forester shall be as prescribed by this chapter.

34 EE. THE COTTON RESEARCH AND PROTECTION COUNCIL IS EXEMPT FROM THE
35 PROVISIONS OF THIS CHAPTER FOR PROCUREMENTS RELATING TO ITS AFLATOXIN CONTROL
36 PROGRAM AND FOR CONTRACTS FOR RESEARCH PROGRAMS RELATED TO COTTON PRODUCTION
37 OR PROTECTION.

38 Sec. 7. Section 41-2706, Arizona Revised Statutes, is amended to read:

39 41-2706. Applicability of chapter

40 A. This chapter applies to the solicitation of grants initiated after
41 ~~the effective date of this chapter~~ AUGUST 6, 1999.

42 B. This chapter does not apply to:

1 1. Any grant program that was exempt from chapter 23, article 3 of
2 this title and for which administrative rules establishing grant solicitation
3 procedures were adopted pursuant to chapter 6 of this title before the
4 ~~effective date of this chapter~~ AUGUST 6, 1999.

5 2. The Arizona board of regents and schools, colleges, institutions
6 and universities under its control if the Arizona board of regents adopts
7 rules or policies governing the award of grants that encourage as much
8 competition as practicable.

9 3. GRANTS MADE BY THE COTTON RESEARCH AND PROTECTION COUNCIL FOR
10 RESEARCH PROGRAMS RELATED TO COTTON PRODUCTION OR PROTECTION.

11 Sec. 8. Section 41-2752, Arizona Revised Statutes, is amended to read:

12 41-2752. State competition with private enterprise prohibited;

13 exceptions

14 A. A state agency shall not engage in the manufacturing, processing,
15 sale, offering for sale, rental, leasing, delivery, dispensing, distributing
16 or advertising of goods or services to the public that are also offered by
17 private enterprise unless specifically authorized by law other than
18 administrative law and executive orders.

19 B. A state agency shall not offer or provide goods or services to the
20 public for or through another state agency or a local agency, including by
21 intergovernmental or interagency agreement, in violation of this section or
22 section 41-2753.

23 C. The restrictions on activities that compete with private enterprise
24 contained in this section do not apply to:

25 1. The development, operation and management of state parks,
26 historical monuments and hiking or equestrian trails.

27 2. Correctional industries established and operated by the state
28 department of corrections providing the prices charged for products sold by
29 the correctional industries are not less than the actual cost of producing
30 and marketing the product plus a reasonable allowance for overhead and
31 administrative costs.

32 3. The Arizona office of tourism.

33 4. The Arizona highways magazine, operated by the department of
34 transportation.

35 5. Printing and distributing information to the public if the agency
36 is otherwise authorized to do so, and printing or copying public records or
37 other material relating to the public agency's public business and recovering
38 through fees and charges the costs of such printing, copying and
39 distribution.

40 6. The department of public safety.

41 7. The construction, maintenance and operation of state transportation
42 facilities.

43 8. The development, distribution, maintenance, support, licensing,
44 leasing or sale of computer software by the department of transportation.

1 9. Agreements executed by the Arizona health care cost containment
2 system administration with other states to design, develop, install and
3 operate information technology systems and related services or other
4 administrative services pursuant to section 36-2925.

5 10. Agreements executed by the department of economic security with
6 other states to design, develop, install and operate support collection
7 technology systems and related services. The department shall deposit,
8 pursuant to sections 35-146 and 35-147, monies received pursuant to this
9 paragraph in the public assistance collections fund established by section
10 46-295.

11 11. Contracts between the department of juvenile corrections and this
12 state, a political subdivision of this state or a private entity in order to
13 provide employment or vocational educational experience.

14 12. THE AFLATOXIN CONTROL TECHNOLOGIES OF THE COTTON RESEARCH AND
15 PROTECTION COUNCIL.

16 D. The restrictions on activities that compete with private enterprise
17 contained in subsection A of this section do not apply to community colleges
18 and universities under the jurisdiction of a state governing board.

~~APPROVED BY THE GOVERNOR MAY 15, 2002.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2002.~~

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate May 9, 2002

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Randall Ament

President of the Senate

Charmine Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

9 day of May, 2002

at 2:48 o'clock P M.

Sandra Ramirez

Secretary to the Governor

Approved this 15 day of

May, 2002,

at 9:49 o'clock P M.

Janice Lee Hull

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15 day of May, 2002

at 4:39 o'clock P M.

Libbey Taylor

Secretary of State

S.B. 1360