

Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 161

SENATE BILL 1092

AN ACT

AMENDING SECTIONS 3-107, 3-108 AND 3-204, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 3-204.01; AMENDING SECTIONS 3-205, 3-206, 3-214.01, 3-1082, 3-1083, 3-1084, 3-1085, 3-1086, 3-1086.02, 3-1087, 41-712 AND 41-2501, 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 3-107, Arizona Revised Statutes, is amended to
3 read:

4 3-107. Organizational and administrative powers and duties of
5 the director

6 A. The director shall:

7 1. Formulate the program and policies of the department and adopt
8 administrative rules to effect its program and policies.

9 2. Ensure coordination and cooperation in the department in order to
10 achieve a unified policy of administering and executing its responsibilities.

11 3. Subject to section 35-149, accept, expend and account for gifts,
12 grants, devises and other contributions of money or property from any public
13 or private source, including the federal government. All contributions shall
14 be included in the annual report under paragraph 6 of this subsection.
15 Monies received under this paragraph shall be deposited, pursuant to sections
16 35-146 and 35-147, in special funds for the purpose specified, which are
17 exempt from the provisions of section 35-190 relating to lapsing of
18 appropriations.

19 4. Contract and enter into interagency and intergovernmental
20 agreements pursuant to title 11, chapter 7, article 3 with any private party
21 or public agency.

22 5. Administer oaths to witnesses and issue and direct the service of
23 subpoenas requiring witnesses to attend and testify at or requiring the
24 production of evidence in hearings, investigations and other proceedings.

25 6. Not later than September 30 each year, issue a report to the
26 governor and the legislature of the department's activities during the
27 preceding fiscal year. The report may recommend statutory changes to improve
28 the department's ability to achieve the purposes and policies established by
29 law. The director shall provide a copy of the report to the Arizona state
30 library, archives and public records.

31 7. Establish, equip and maintain a central office in Phoenix and field
32 offices as the director deems necessary.

33 8. Sign all vouchers to expend money under this title, which shall be
34 paid as other claims against this state out of the appropriations to the
35 department.

36 9. Coordinate agricultural education efforts to foster an
37 understanding of Arizona agriculture and to promote a more efficient
38 cooperation and understanding among agricultural educators, producers,
39 dealers, buyers, mass media and the consuming public to stimulate the
40 production, consumption and marketing of Arizona agricultural products.

41 10. Employ staff subject to title 41, chapter 4, article 4 and
42 terminate employment for cause as provided by title 41, chapter 4, article 5.

1 11. ~~Conduct hearings on appeals of the portion of plow-up refunds~~
2 ~~withheld as a penalty pursuant to criteria adopted pursuant to section~~
3 ~~3-1087, subsection B~~ BY PRODUCERS REGARDING THE ASSESSED ACTUAL COSTS OF THE
4 PLOW UP AND THE PENALTY OF ONE HUNDRED FIFTY PER CENT FOR UNPAID COSTS
5 PURSUANT TO SECTION 3-204.01. The director may adopt rules to implement this
6 paragraph.

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

14 B. The director may:

15 1. Authorize in writing any qualified officer or employee in the
16 department to perform any act that the director is authorized or required to
17 do by law.

18 2. Construct and operate border inspection stations or other necessary
19 facilities in this state and cooperate by joint agreement with an adjoining
20 state in constructing and operating border inspection stations or other
21 facilities within the boundaries of this state or of the adjoining state.

22 3. Cooperate with agencies of the United States and other states and
23 other agencies of this state and enter into agreements in developing and
24 administering state and federal agricultural programs regarding the use of
25 department officers, inspectors or other resources in this state, in other
26 states or in other countries.

27 4. Cooperate with the office of tourism in distributing Arizona
28 tourist information.

29 5. Enter into compliance agreements with any person, state or
30 regulatory agency. For the purposes of this paragraph, "compliance
31 agreement" means any written agreement or permit between a person and the
32 department for the purpose of enforcing the department's requirements.

33 6. Abate, suppress, control, regulate, seize, quarantine or destroy
34 any agricultural product or foodstuff that is adulterated or contaminated as
35 the result of an accident at a commercial nuclear generating station as
36 defined in section 26-301, paragraph 1. A person owning an agricultural
37 product or foodstuff that has been subject to this paragraph may request a
38 hearing pursuant to title 41, chapter 6, article 10.

39 7. Engage in joint venture activities with businesses and commodity
40 groups that are specifically designed to further the mission of the
41 department, that comply with the constitution and laws of the United States
42 and that do not compete with private enterprise.

43 8. Sell, exchange or otherwise dispose of personal property labeled
44 with the "Arizona grown" trademark. Revenues received pursuant to this

1 paragraph shall be credited to the commodity promotion fund established by
2 section 3-109.02.

3 Sec. 2. Section 3-108, Arizona Revised Statutes, is amended to read:

4 3-108. Administrative support fund; use; exemption

5 A. A department of agriculture administrative support fund is
6 established. All monies collected pursuant to any interagency agreement with
7 the department pursuant to section 3-588, subsection A and ~~section 3-1084,~~
8 ~~subsection C~~ shall be deposited, pursuant to sections 35-146 and 35-147, in
9 the fund.

10 B. All monies collected pursuant to any interagency agreement with the
11 department in accordance with section 3-468.03, subsection A and section
12 3-526.03, subsection A shall be deposited in the administrative support fund
13 or deposited in the citrus, fruit and vegetable trust fund established by
14 section 3-447 pursuant to the terms of the interagency agreement. Deposits
15 in the administrative support fund shall be made pursuant to sections 35-146
16 and 35-147.

17 C. Monies in the fund are continuously appropriated and exempt from
18 the provisions of section 35-190 relating to lapsing of appropriations.

19 Sec. 3. Section 3-204, Arizona Revised Statutes, is amended to read:

20 3-204. Summary abatement of imminently dangerous nuisance;
21 procedure; expense; lien; public sale; reimbursement
22 costs and penalties to state for certain abatements;
23 civil penalty

24 A. If, in the opinion of the director, the danger to the agricultural
25 and horticultural industry of the state is imminent if the nuisance caused by
26 a plant or thing is not speedily abated or suppressed, and if ~~he~~ THE DIRECTOR
27 finds it is practical to summarily abate the nuisance, either by the
28 destruction of the plant or thing or by the treatment thereof so as to
29 destroy or eradicate the crop pest or disease without actually destroying the
30 plant or thing, the director shall in writing direct the owner or person in
31 charge of the nuisance, if ~~he~~ THE OWNER OR PERSON is found in the county,
32 forthwith and at ~~his~~ THE OWNER'S OR PERSON'S expense to abate and suppress
33 the nuisance in the manner provided in the written direction. If the owner
34 or person in charge fails or neglects to comply with the direction for a
35 period of five days after the date on which the direction was delivered to or
36 served ~~upon him~~ ON THE OWNER OR PERSON, ~~then~~ the director shall summarily
37 abate the nuisance in the manner specified in the written direction.

38 B. If the owner or person in charge or control of the nuisance is a
39 nonresident of the state or cannot, after reasonable diligence by the
40 director, be found within the county where the nuisance exists, the director
41 shall publish the notice and the direction one time in a newspaper published
42 in the county, and shall post a copy at, on or in the immediate vicinity of
43 the nuisance, and after seven days from the first publication and posting,
44 the director shall abate the nuisance in the manner specified in the
45 direction.

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

6 D. The director shall notify the owner or person in charge or control
7 of the nuisance of the amount of the expenses, and that unless the amount is
8 paid within ten days after the date of service of the notice upon ON the
9 owner or person in charge, the plant or thing will be sold at public sale,
10 and the proceeds, or so much thereof as may be necessary, applied to the
11 payment of the expenses. The notice shall be personally served or posted as
12 required in this section for notices to abate.

13 E. If the owner or person in charge of the plant or thing fails to pay
14 the expenses within the time specified in the notice, the director shall give
15 public notice of the time and place of sale with a description of the plant
16 or thing to be sold, and the amount of expenses against it, which shall
17 include costs of publication, posting and service of notice. The notice of
18 sale shall be published and posted as provided in this section for the
19 publication and posting of direction to suppress the nuisance.

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

23 G. If the director is required to abate the nuisance of ~~cotton or~~
24 ~~cotton stubble which is not destroyed before a date established by the~~
25 ~~director or is required to abate the nuisance of cotton planted before a date~~
26 ~~established by the director, unless the director waives such dates due to~~
27 ~~variations in weather conditions, STUB, SOCA OR VOLUNTEER COTTON following~~
28 the refusal by the owner or person in charge or control of the nuisance to do
29 so, the owner or person in charge or control of the nuisance shall reimburse
30 the department for the actual costs of the state's abatement of the nuisance.
31 An injunction shall not be granted to stay this state from abating the
32 nuisance. ~~To collect the costs of reimbursement, the director may either~~
33 ~~request reimbursement from the cotton research and protection council under~~
34 ~~programs of the council to abate cotton fields or from the owner or person in~~
35 ~~charge. THE DIRECTOR MAY REQUEST THE COTTON RESEARCH AND PROTECTION COUNCIL~~
36 ~~TO PROVIDE MONIES PURSUANT TO SECTION 3-1085, SUBSECTION B TO HELP DEFRAY THE~~
37 ~~DEPARTMENT'S COST OF ABATEMENT UNTIL THE OWNER OR PERSON IN CHARGE REIMBURSES~~
38 ~~THE DEPARTMENT FOR THOSE COSTS. If the actual costs of abatement are not~~
39 ~~paid within ten days after the owner or person in charge receives notice of~~
40 ~~the amount of the costs, the director may impose a CIVIL penalty of fifty per~~
41 ~~cent of the costs of abatement. and may prepare and file or record in the~~
42 ~~office of the county recorder of the county where the land is situated a~~
43 ~~notice of lien, setting forth the amount of the unpaid costs, the amount of~~
44 ~~the penalty and the name of the owner or person in charge. Upon such~~
45 ~~recording, the amount required to be reimbursed becomes a lien on the land~~

1 ~~subordinate only to any lien for state and local taxes. The director may~~
2 ~~issue a notice of abatement penalty to be applied to any rebate authorized~~
3 ~~pursuant to section 3-1083, subsection B, paragraph 4 and section 3-1087,~~
4 ~~subsection B. All penalties collected under this section shall be deposited~~
5 ~~in the cotton research and protection council fund established by section~~
6 ~~3-1085. AT THE DIRECTOR'S REQUEST, THE ATTORNEY GENERAL SHALL FILE AN ACTION~~
7 ~~IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES ASSESSED PURSUANT TO THIS~~
8 ~~SUBSECTION. ALL CIVIL PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE~~
9 ~~DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE DANGEROUS PLANTS,~~
10 ~~PESTS AND DISEASES TRUST FUND ESTABLISHED BY SECTION 3-214.01.~~

11 Sec. 4. Title 3, chapter 2, article 1, Arizona Revised Statutes, is
12 amended by adding section 3-204.01, to read:

13 3-204.01. Council plow-up request; civil penalty

14 A. AT THE REQUEST OF THE COTTON RESEARCH AND PROTECTION COUNCIL, THE
15 DIRECTOR, ACTING AS AN AGENT OF THE COUNCIL, SHALL PLOW UP COTTON FIELDS THAT
16 ARE NOT IN COMPLIANCE WITH SECTION 3-1086, SUBSECTION D. AN INJUNCTION SHALL
17 NOT BE GRANTED TO STAY THIS STATE FROM PLOWING UP THE FIELDS. THE DIRECTOR
18 MAY REQUEST THE COTTON RESEARCH AND PROTECTION COUNCIL TO PROVIDE MONIES
19 PURSUANT TO SECTION 3-1085, SUBSECTION B TO HELP DEFRAY THE COSTS OF THE PLOW
20 UP UNTIL THE OWNER OR PERSON IN CHARGE REIMBURSES THE DEPARTMENT FOR THE
21 ACTUAL COSTS OF THE PLOW UP.

22 B. IF THE ACTUAL COSTS OF THE PLOW UP ARE NOT PAID WITHIN THREE MONTHS
23 AFTER THE OWNER OR PERSON IN CHARGE RECEIVES NOTICE OF THE AMOUNT OF THE
24 COSTS, THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF ONE HUNDRED FIFTY PER
25 CENT OF THE COSTS OF THE PLOW UP. AT THE DIRECTOR'S REQUEST, THE ATTORNEY
26 GENERAL SHALL FILE AN ACTION IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES
27 ASSESSED PURSUANT TO THIS SUBSECTION.

28 C. A PRODUCER MAY APPEAL TO THE COUNCIL THE ORDER OF THE COUNCIL FOR
29 THE PLOW UP OF NONCOMPLIANT COTTON FIELDS BY THE DEPARTMENT PURSUANT TO TITLE
30 41, CHAPTER 6, ARTICLE 10.

31 D. ALL COSTS AND CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE
32 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE DANGEROUS PLANTS,
33 PESTS AND DISEASES TRUST FUND ESTABLISHED BY SECTION 3-214.01.

34 Sec. 5. Section 3-205, Arizona Revised Statutes, is amended to read:

35 3-205. Abatement of nuisance not imminently dangerous;
36 procedure; lien; foreclosure; release of lien;
37 reimbursement costs and penalties to state for certain
38 abatements; civil penalty

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

1 shall require the person, at his THE PERSON'S expense, to take and comply
2 with the measures specified in the direction and subsequent directions.

3 B. The directions shall be made, given and served as prescribed for
4 summary abatement, and if they are not complied with, the director may
5 proceed as provided by the directions, and the expense shall be charged
6 against the state.

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

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

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

25 F. ~~Upon~~ ON satisfaction of the lien, the director shall issue a
26 release of the lien to the person against whom the lien was claimed. Such
27 release shall be a document in a form as specified in section 11-480.

28 G. If the director is required to abate the nuisance of ~~cotton or~~
29 ~~cotton stubble which is not destroyed before a date established by the~~
30 ~~director or is required to abate the nuisance of cotton planted before a date~~
31 ~~established by the director, unless the director waives such dates due to~~
32 ~~variations in weather conditions,~~ STUB, SOCA OR VOLUNTEER COTTON following
33 the refusal by the owner or person in charge or control of the nuisance to do
34 so, the owner or person in charge or control of the nuisance shall reimburse
35 the department for the actual costs of the state's abatement of the nuisance.
36 In addition, a penalty of fifty per cent of the costs of the state's
37 abatement of the nuisance shall be imposed. All penalties shall be deposited
38 in the ~~cotton research and protection council fund established by section~~
39 ~~3-1085.~~ An injunction shall not be granted to stay this state from abating
40 the nuisance. ~~To collect the costs of reimbursement, the director may either~~
41 ~~request reimbursement from the cotton research and protection council under~~
42 ~~programs of the council to abate cotton fields or from the owner or person in~~
43 ~~charge.~~ THE DIRECTOR MAY REQUEST THE COTTON RESEARCH AND PROTECTION COUNCIL
44 TO PROVIDE MONIES PURSUANT TO SECTION 3-1085, SUBSECTION B TO HELP DEFRAY THE
45 DEPARTMENT'S COST OF ABATEMENT UNTIL THE OWNER OR PERSON IN CHARGE REIMBURSES

1 THE DEPARTMENT FOR THOSE COSTS. If the actual costs of abatement are not
2 paid within ten days after the owner or person in charge receives notice of
3 the amount of the costs, ~~the department may charge~~ THE DIRECTOR MAY IMPOSE A
4 CIVIL PENALTY OF one hundred fifty per cent of the costs OF ABATEMENT. and
5 ~~may prepare and file or record in the office of the county recorder of the~~
6 ~~county where the land is situated a notice of lien, setting forth the amount~~
7 ~~of the unpaid costs and the name of the owner or person in charge, and upon~~
8 ~~such recording, the amount required to be reimbursed becomes a lien on the~~
9 ~~land subordinate only to any lien for state and local taxes. The director~~
10 ~~may issue a notice of abatement penalty to be applied to any rebate~~
11 ~~authorized pursuant to section 3-1083, subsection B, paragraph 4 and section~~
12 ~~3-1087, subsection B. AT THE DIRECTOR'S REQUEST, THE ATTORNEY GENERAL SHALL~~
13 FILE AN ACTION IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES ASSESSED PURSUANT
14 TO THIS SUBSECTION. ALL CIVIL PENALTIES COLLECTED UNDER THIS SUBSECTION
15 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE DANGEROUS
16 PLANTS, PESTS AND DISEASES TRUST FUND ESTABLISHED BY SECTION 3-214.01.

17 Sec. 6. Section 3-206, Arizona Revised Statutes, is amended to read:

18 3-206. Destruction of noninfected crops on abatement of
19 nuisance; procedure; hearing; evidence

20 A. If the plants constituting the nuisance consist of growing crops,
21 trees, orchards, vines or shrubbery, and the infestation or infection is by a
22 plant pest or disease of such a nature, or if the location of the plants with
23 respect to other plants not infested or infected is a part of the same crop,
24 or is growing immediately adjacent to the infested or infected plants, and
25 the director believes it is impractical to abate the nuisance, and to
26 suppress, eradicate or control the crop pest or disease without destroying
27 the whole of the crop, trees, orchard, vines or shrubbery of which the
28 infested or infected plants are a part, or without serious injury to
29 uninfested or uninfested plants, ~~then~~ the director may adopt proper measures
30 to control, eradicate and suppress the crop pest or disease, although it
31 causes a destruction of the crops, trees, orchards, vines and shrubbery,
32 or an injury to uninfested or uninfested plants ~~which~~ THAT are a part of the
33 crops, trees, orchards, vines or shrubbery.

34 B. Before proceeding with abatement of the nuisance or suppressing,
35 eradicating or controlling the crop pest or disease, the director shall serve
36 written notice ~~upon~~ ON the owner or person in charge of the premises on which
37 the nuisance is located, specifying the infestation or infection and
38 directing the person to appear at a hearing to be held at a time and place
39 within the county where the nuisance exists, and show cause why the crop,
40 trees, orchard, vines or shrubbery should not be destroyed in whole or in
41 part.

42 C. The notice shall be personally served on the person, if ~~he~~ THE
43 PERSON is found within the county where the nuisance exists, at least five
44 days ~~prior to~~ BEFORE the hearing. If the person is a nonresident or cannot
45 be found in the county, ~~then~~ the notice shall be published in a newspaper

1 published in the county for at least seven days ~~prior to~~ BEFORE the hearing,
2 and in addition, a copy thereof shall be posted in a conspicuous place on or
3 at the premises involved for a like period.

4 D. Any interested party may appear at the hearing and be heard, either
5 in person or by attorney. The hearing officer shall preserve a record of all
6 evidence introduced, and at the conclusion of the hearing shall enter an
7 order conforming to his THE HEARING OFFICER'S findings.

8 ~~E. Any crop or portion thereof which is destroyed pursuant to this~~
9 ~~section shall be paid for from the general fund. The payments shall equal~~
10 ~~sixty per cent of its value at the time of destruction. If the damages are~~
11 ~~disputed the director may settle the dispute by arbitration.~~

12 Sec. 7. Section 3-214.01, Arizona Revised Statutes, is amended to
13 read:

14 3-214.01. Dangerous plants, pests and diseases trust fund

15 A. A dangerous plants, pests and diseases trust fund is established
16 for the exclusive purpose of implementing, continuing and supporting the
17 agricultural program established by this article. All monies collected under
18 ~~the provisions of this article except civil penalties assessed pursuant to~~
19 ~~section 3-204, 3-205, 3-205.02 or 3-215.01 shall be deposited in the~~
20 dangerous plants, pests and diseases trust fund.

21 B. The director shall administer the trust fund as trustee. The state
22 treasurer shall accept, separately account for and hold in trust any monies
23 deposited in the state treasury, which are considered to be trust monies as
24 defined in section 35-310 and which shall not be commingled with any other
25 monies in the state treasury except for investment purposes. On notice from
26 the director, the state treasurer shall invest and divest any trust fund
27 monies deposited in the state treasury as provided by sections 35-313 and
28 35-314.03, and monies earned from investment shall be credited to the trust
29 fund.

30 C. The beneficiary of the trust is the agricultural program
31 established by this article. All monies in the dangerous plants, pests and
32 diseases trust fund are to be used by the department exclusively to carry out
33 ~~the provisions of this article, including salaries, fees and office,~~
34 administrative, bonding and travel expenses incurred.

35 D. The unexpended and unencumbered balance of monies, if any,
36 remaining in the dangerous plants, pests and diseases trust fund at the end
37 of each fiscal year shall not revert to the state general fund.

38 Sec. 8. Section 3-1082, Arizona Revised Statutes, is amended to read:

39 3-1082. Cotton research and protection council; membership;
40 terms; vacancy; compensation

41 A. The cotton research and protection council is established and is
42 composed of nine active cotton producers to be appointed by the governor.
43 The members shall be appointed as follows:

- 44 1. Two each who are residents of:
45 (a) Maricopa county.

1 (b) Pinal county.

2 (c) The Yuma, La Paz and Mohave counties area.

3 2. One each who is a resident of:

4 (a) Pima county.

5 (b) Cochise county.

6 (c) The Graham and Greenlee counties area.

7 B. The governor may consult with any recognized cotton producer
8 organizations in this state in determining appointments to the council.

9 C. The term of office of council members is three years and expires on
10 December 31 of the appropriate year, but a member may continue to serve until
11 his A successor is appointed and assumes office. A member is eligible for a
12 second consecutive three-year term. A member who completes a second
13 consecutive three-year term is ineligible for reappointment for at least one
14 year. On the expiration of a term of a member or in the event of a vacancy,
15 a successor shall be appointed by the governor.

16 D. IF THE OFFICE OF ANY COUNCIL MEMBER BECOMES VACANT, THE COUNCIL
17 SHALL NOTIFY THE GOVERNOR AND THE GOVERNOR SHALL APPOINT A PERSON TO FILL THE
18 REMAINDER OF THE TERM. The office of any member shall be deemed vacant and
19 ~~the governor shall appoint a person to fill the remainder of the term~~ under
20 any of the following circumstances:

21 1. The member is no longer an active cotton producer.

22 2. The member is unable to perform his THE duties OF OFFICE.

23 3. ~~The absence of~~ The member HAS BEEN ABSENT from three consecutive
24 council meetings if the absences have not been excused by the council.

25 4. The member has ceased to reside in the county or county area that
26 the member was appointed to represent.

27 E. Members of the council are not eligible to receive compensation but
28 are eligible for reimbursement of expenses pursuant to title 38, chapter 4,
29 article 2.

30 Sec. 9. Section 3-1083, Arizona Revised Statutes, is amended to read:

31 3-1083. Council powers and duties

32 A. The council shall:

33 1. Receive and disburse monies to be used in administering the
34 ~~provisions of~~ this article.

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

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

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

39 5. Establish an executive committee consisting of the chairman,
40 secretary and treasurer. AN EXECUTIVE COMMITTEE MEMBER MAY NOT SERVE IN THE
41 SAME EXECUTIVE OFFICE FOR MORE THAN THREE YEARS. The executive committee
42 shall act in accordance with the direction received from the council or, if
43 necessary, the executive committee shall act and bring the matter before the
44 full council at the next regular meeting of the council for review and
45 ratification.

1 6. Provide for a triennial audit of its accounts by a qualified public
2 accounting firm and additional audits as the council may require and make an
3 annual financial statement available to any producer and the auditor general
4 on request.

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

7 8. Prepare an annual report of its activities, receipts and
8 expenditures. The report shall be submitted to the governor, other state
9 officers as the council determines and other persons in the cotton industry
10 in this state as may be appropriate. Copies of the annual report shall be
11 available to any interested cotton producer and the general public on
12 request.

13 9. Organize and administer any referendum called FOR under subsection
14 C, paragraph 6- 9 of this section.

15 ~~10. Reimburse the department for costs incurred in the abatement of~~
16 ~~cotton fields under section 3-204, subsection G and section 3-205, subsection~~
17 ~~G from monies authorized for abatement of cotton fields pursuant to section~~
18 ~~3-1087, subsection B, if monies are available.~~

19 B. The council may authorize or contract for any of the following
20 programs:

21 1. Those research programs that are related to cotton production or
22 its protection, including cotton seed breeding or other research programs to
23 develop germplasm.

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

26 ~~3.~~ 2. Programs of aflatoxin control and cotton pest eradication.

27 ~~4.~~ 3. A program to refund REBATE A PORTION OF collected fees to
28 cotton producers to provide an incentive to abate PLOW UP cotton fields to be
29 administered in cooperation with the department IN A TIMELY MANNER.

30 ~~5.~~ 4. Any other programs that the council deems to be appropriate for
31 furthering the purposes of this article.

32 C. The council may:

33 1. Adopt rules necessary to promptly and effectively administer the
34 ~~provisions of this article.~~

35 2. Award grants of monies, property, services or other assistance to
36 public or private recipients for the express purpose of furthering the
37 objectives of this article, including research programs related to cotton
38 protection and production authorized by the council.

39 3. Accept grants and donations of monies, property, services or other
40 assistance from public or private sources for the express purpose of
41 furthering the objectives of this article.

42 4. Investigate and prosecute in the name of this state any action or
43 suit to enforce the collection or ensure payment of the fees authorized and
44 to sue and be sued in the name of the council.

1 5. Buy and sell seed and other products used in the council's
2 aflatoxin control program, extend credit in connection with the sale and
3 distribution of treated seed and other products, collect and enforce debts or
4 obligations with respect to extended credit and take a security interest in
5 collateral of all kinds, including real and personal property to secure the
6 credit.

7 6. Cooperate with any local, state and national organizations or
8 agencies engaged in activities similar to or related to those of the council
9 and enter into contracts with these organizations or agencies for carrying on
10 joint programs.

11 7. Acquire and protect patents, licenses or certificates of protection
12 for plant varieties resulting from seed breeding or other programs authorized
13 by the council and grant licenses to use intellectual property rights held by
14 the council.

15 8. Act jointly and in cooperation with this state or any other state
16 or the federal government in the administration of any program deemed by the
17 council as beneficial to the cotton industry of this state.

18 9. Refer to the cotton producers in this state for an advisory vote
19 the question of establishing, continuing or discontinuing any program
20 authorized by this article.

21 10. Expend monies for public relations programs that are organized to
22 promote the cotton industry or agriculture in this state.

23 11. Purchase AND SELL motor vehicles for the administration of its own
24 motor vehicle fleet and provide for its operation and maintenance.

25 12. PROVIDE MONIES TO THE DEPARTMENT AS NECESSARY FOR THE ABATEMENT OF
26 A COTTON NUISANCE UNDER SECTION 3-204, SUBSECTION G OR SECTION 3-205,
27 SUBSECTION G OR FOR THE PLOW UP OF COTTON FIELDS PURSUANT TO SECTION 3-204.01
28 TO BE LOANED BY AND REPAID TO THE COUNCIL PURSUANT TO SECTION 3-1085,
29 SUBSECTION B.

30 ~~D. No member may serve in the same executive office of the council for~~
31 ~~more than three consecutive years.~~

32 Sec. 10. Section 3-1084, Arizona Revised Statutes, is amended to read:

33 3-1084. Council staff; administrative services; reimbursement

34 A. The council may employ staff, INCLUDING A STAFF DIRECTOR, at a rate
35 of compensation determined by the council, to serve at the pleasure of the
36 council and shall prescribe the terms and conditions of employment of
37 employees as necessary to perform the functions prescribed by this article.

38 B. All employees of the council are exempt from title 38, chapter 4,
39 article 1 and title 41, chapter 4, articles 5 and 6 and are not under the
40 jurisdiction of the department of administration.

41 C. The council may also enter into an interagency agreement AGREEMENTS
42 with the department to provide necessary administrative services to the
43 council, including:—

1 1. ~~Providing secretarial and other services necessary for the council~~
2 ~~to carry out its activities.~~

3 2. ~~Establishing separate operating accounts for the council.~~

4 3. ~~Providing necessary financial and accounting services to the~~
5 ~~council, including the issuance of checks, payment of bills approved by the~~
6 ~~council, annual audits, expenditure and receipt reports whether monthly or~~
7 ~~annually, preparation of an annual budget and any other activities requested~~
8 ~~by the council.~~

9 4. ~~Receiving mail and other communications for the council.~~

10 5. ~~Receiving monies authorized under this article for deposit,~~
11 ~~pursuant to sections 35-146 and 35-147, in the appropriate funds.~~

12 6. ~~Accepting donated monies on behalf of the council to be credited to~~
13 ~~the account of the council.~~

14 7. ~~Providing space for the meetings of the council.~~

15 8. ~~Providing any other administrative services which the council~~
16 ~~requests or finds necessary.~~

17 D. ~~If the department performs any function under this article, it acts~~
18 ~~as the agent of the council and has no authority or control over the council~~
19 ~~or the council's employees or assets. The council shall reimburse the~~
20 ~~department for any administrative services the department provides from the~~
21 ~~monies received under this article in an amount agreed on by the council and~~
22 ~~director. Monies received by the department shall be deposited, pursuant to~~
23 ~~sections 35-146 and 35-147, in the administrative support fund established by~~
24 ~~section 3-108.~~

25 Sec. 11. Section 3-1085, Arizona Revised Statutes, is amended to read:

26 3-1085. Cotton research and protection council fund; use by
27 director

28 A. The cotton research and protection council fund is established for
29 the purpose of administering this article. The council shall administer the
30 fund. The fund consists of penalties, ~~collected pursuant to sections 3-204~~
31 ~~and 3-205,~~ fees and other income collected pursuant to this article.

32 B. The director may request the use of fund monies for the NUISANCE
33 abatement of upland cotton fields ~~and for those purposes AS provided for~~
34 ~~under the abatement provisions of sections 3-204, SUBSECTION G and 3-205,~~
35 ~~SUBSECTION G AND THE PLOW UP OF COTTON FIELDS UNDER SECTION 3-204.01.~~ Monies
36 distributed pursuant to this subsection shall be repaid to the fund within
37 one calendar year after their disbursement, but the council may extend the
38 repayment period at its discretion and set the terms and conditions for
39 repayment. THE COUNCIL MAY WAIVE REPAYMENT OF FUND MONIES BY THE DEPARTMENT.

40 C. The council may deposit monies from fees assessed pursuant to
41 section 3-1086 in the fund. ~~The council shall deposit monies from penalties~~
42 ~~collected pursuant to section 3-204 in the fund.~~

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

1 Sec. 12. Section 3-1086, Arizona Revised Statutes, is amended to read:
2 3-1086. Fees; collection; plow-up enforcement; budget; civil
3 penalty

4 A. The council, on or before July 1 of each calendar year, shall
5 assess a fee of not to exceed one dollar per bale of cotton produced in this
6 state on land above twenty-seven hundred feet in elevation and not to exceed
7 five dollars per bale of cotton produced in this state on land twenty-seven
8 hundred feet in elevation or below. If the council finds that a program of
9 ~~pink bollworm eradication~~ TO CONTROL COTTON PESTS OR DISEASES is necessary on
10 land above twenty-seven hundred feet in elevation, the council may raise the
11 fee not to exceed ~~five~~ THREE dollars per bale of cotton ~~for the duration of~~
12 ~~the eradication program or for four years after establishing the eradication~~
13 ~~program, whichever period expires first, after which the fee reverts to not~~
14 ~~more than one dollar per bale of cotton~~ SUBJECT TO THE COUNCIL ADOPTING AN
15 ANNUAL BUDGET FOR THE PROGRAM.

16 B. Cotton gins shall collect and remit the fee to the council
17 according to procedures and on forms the council prescribes. A gin shall
18 remit at least one-half of the annual fee as established by the council and
19 not designated as a ~~refund~~ REBATE for the ~~abatement~~ PLOW UP of cotton fields
20 as provided in section 3-1087, subsection B on or before February 15 of each
21 year with a report of actual bales ginned through January 31 of each year and
22 an estimate of bales to be ginned by March 15. The remainder of the fee is
23 due on or before March 15 of each year. The portion of the fee that is
24 designated as a ~~refund~~ REBATE for the ~~abatement~~ PLOW UP of cotton fields may
25 be held by the gin, subject to certification by the ~~Arizona department of~~
26 ~~agriculture~~ COUNCIL that a producer has complied with the ~~abatement~~ PLOW-UP
27 program. ~~Upon~~ ON notification of certification to the gin, the fee
28 designated for the ~~abatement~~ PLOW-UP program as a ~~refund~~ REBATE shall be
29 credited to the producer's account of the gin responsible for the remittance
30 of the fee. ~~If a producer fails to comply with the program to abate cotton~~
31 ~~fields according to plow-up rules adopted under chapter 2, article 1 of this~~
32 ~~title, the fee designated as a refund shall be remitted, in full, to the~~
33 ~~council. The gin shall inform the council, on forms prescribed by the~~
34 ~~council, of the names of persons or farms for which the gin is withholding~~
35 ~~the fee designated as a refund under section 3-1087, subsection B at the time~~
36 ~~the fee is collected.~~

37 C. THE COUNCIL MAY GRANT EXTENSIONS FOR THE PLOW UP OF COTTON FIELDS
38 FOR WEATHER-RELATED REASONS ONLY. THE COUNCIL SHALL ESTABLISH, BY RULE,
39 CRITERIA AND A PROCESS FOR GRANTING EXTENSIONS.

40 D. IF A PRODUCER FAILS TO COMPLY WITH THE REQUIREMENT TO PLOW UP
41 COTTON FIELDS ON ESTABLISHED DATES AS REQUIRED BY SECTION 3-1087, SUBSECTION
42 B AND RULES ADOPTED UNDER CHAPTER 2, ARTICLE 1 OF THIS TITLE, THE PRODUCER
43 FORFEITS THE FEE DESIGNATED AS A REBATE UNDER SUBSECTION B OF THIS SECTION
44 AND SECTION 3-1087, SUBSECTION B AND IS ALSO ASSESSED A CIVIL PENALTY OF ONE
45 HUNDRED DOLLARS FOR EACH ACRE NOT IN COMPLIANCE AS CERTIFIED BY THE COUNCIL.

1 THE REBATE MUST BE REMITTED IN FULL TO THE COUNCIL BY THE GIN RESPONSIBLE FOR
2 THE REMITTANCE OF THE REBATE. THE COUNCIL SHALL NOTIFY THE OWNER OR PERSON
3 IN CHARGE OF THE AMOUNT OF THE CIVIL PENALTY AND THE REQUIREMENT THAT IT MUST
4 BE PAID TO THE COUNCIL WITHIN THREE MONTHS. AT THE COUNCIL'S REQUEST, THE
5 ATTORNEY GENERAL SHALL FILE AN ACTION IN SUPERIOR COURT TO RECOVER CIVIL
6 PENALTIES ASSESSED PURSUANT TO THIS SUBSECTION. ALL MONIES COLLECTED UNDER
7 THIS SUBSECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147,
8 IN THE COTTON RESEARCH AND PROTECTION COUNCIL FUND ESTABLISHED BY SECTION
9 3-1085. THE COUNCIL MAY ADOPT RULES TO IMPLEMENT THIS SUBSECTION. A
10 PRODUCER MAY APPEAL TO THE COUNCIL THE FORFEITED REBATE OR THE ASSESSED
11 PENALTY APPLICABLE TO THE NONCOMPLIANT ACRES PURSUANT TO TITLE 41, CHAPTER 6,
12 ARTICLE 10. THE COUNCIL MAY REQUEST, UNDER SECTION 3-204.01, THAT THE
13 DEPARTMENT PLOW UP COTTON FIELDS NOT IN COMPLIANCE WITH SECTION 3-1087,
14 SUBSECTION B AND THE RULES ADOPTED UNDER CHAPTER 2, ARTICLE 1 OF THIS TITLE.

15 ~~E.~~ E. A cotton producer is responsible for payment of the fee unless
16 the fee is withheld for payment to the council by a gin.

17 ~~D.~~ F. Before establishing the annual fee the council shall establish
18 a budget. The budget is effective on approval of the council.

19 ~~E.~~ G. Title 41, chapter 6 does not apply to setting the fee under
20 this section, but the council shall provide sixty days' advance notice of the
21 meeting at which the fee will be adopted and the amount of the proposed fee.
22 The council shall receive public testimony at the meeting regarding the fee.

23 Sec. 13. Section 3-1086.02, Arizona Revised Statutes, is amended to
24 read:

25 3-1086.02. Pink bollworm eradication program; fee;
26 registration; civil penalties

27 A. The council may organize and implement a pink bollworm eradication
28 program. The council shall conduct a referendum among eligible cotton
29 producers, as determined by the council, with the assistance of the
30 department and appropriate federal agencies, on the question of establishing
31 a program and fee. The ballot for the referendum shall present the question,
32 "Shall a pink bollworm eradication program and fee of not more than
33 thirty-two dollars per planted acre of cotton be established in this state?"
34 with spaces in which the voter can indicate a vote for or against the
35 proposal. The program may not be established unless either:

36 1. At least sixty-six per cent of those voting approve of the program.

37 2. Those voting to approve the program represent more than fifty per
38 cent of the cotton acreage in this state, as determined by the council.

39 B. If approved, the council may choose to either implement a statewide
40 eradication program or establish regional areas in this state for
41 implementation of an eradication program.

42 C. The authority to assess and collect the pink bollworm eradication
43 program fee under this section terminates four years after the date
44 establishing the pink bollworm eradication program statewide or four years
45 after the date implementing a pink bollworm eradication program in a region.

1 D. After a pink bollworm eradication program has been established
2 under this section:

3 1. The council may assess a fee on or before July 1 each year of not
4 more than thirty-two dollars per planted acre of cotton to control the pink
5 bollworm. Title 41, chapter 6 does not apply to setting the fee under this
6 section, but the council shall provide thirty days' advance notice of the
7 meeting at which the fee will be adopted and the proposed amount of the fee.
8 The fee shall be based on a detailed expenditure plan for that year to
9 control the pink bollworm in non-Bt fields. The council shall approve the
10 expenditure plan before establishing the fee. The council shall provide a
11 copy of the proposed annual expenditure plan to all producers who request a
12 copy within ten days before the meeting at which the fee will be adopted.
13 The council shall receive public testimony at the meeting regarding the fee.

14 2. The council shall waive the fee for each planted acre of Bt cotton.

15 3. Thirty days after the date established by rules adopted pursuant to
16 chapter 2, article 1 of this title for abatement of the nuisance of cotton or
17 cotton stubble, each producer shall register each acre of non-Bt cotton with
18 the council on forms prescribed by the council and shall pay the fee in full
19 to the council within sixty days of registration, unless the producer's
20 lender guarantees payment or other arrangements are made to the council's
21 satisfaction or under terms established by the council. The council, at its
22 discretion, may permit late registration.

23 4. A producer shall not plant non-Bt cotton after the dates
24 established in rules adopted pursuant to ~~sections 3-204 and 3-205~~ CHAPTER 2,
25 ARTICLE 1 OF THIS TITLE without written permission of the council.

26 5. The council may impose a civil penalty against a producer of not
27 more than two hundred dollars per acre for each planted acre of non-Bt cotton
28 for failure to register or failure to pay the fee when due under this
29 section.

30 6. The council shall rebate, under terms established by the council,
31 any collected fees that are not spent for protection from pink bollworm in
32 non-Bt cotton fields statewide or in a region in which the fees were
33 collected.

34 Sec. 14. Section 3-1087, Arizona Revised Statutes, is amended to read:

35 3-1087. Deposit of fees; rebates; use of monies on termination

36 A. Monies collected pursuant to sections 3-1086, 3-1086.01 and
37 3-1086.02 shall be deposited and held in trust in the council's accounts,
38 ~~which are administered by the department as the council's agent,~~ and
39 disbursed as approved by the council for the purposes prescribed in this
40 article.

41 B. The council may use monies collected under section 3-1086 as a
42 ~~refund~~ REBATE to cotton producers to facilitate a program to provide
43 incentives for the ~~abatement of cotton fields~~ TIMELY PLOW UP OF COTTON FIELDS
44 ACCORDING TO THE DATES ESTABLISHED BY RULES ADOPTED PURSUANT TO CHAPTER 2,
45 ARTICLE 1 OF THIS TITLE TO MAINTAIN A HOST-FREE PERIOD. The council may

1 SHALL issue a refund REBATE only on certification by the Arizona department
2 of agriculture COUNCIL that the cotton field has been abated according to
3 plow-up rules adopted under chapter 2, article 1 of this title PLOWED UP.
4 With the approval of the cotton producer, a refund THE REBATE may be assigned
5 to a lending institution. A portion of the refund may be withheld as a
6 penalty for noncompliance with plow-up rules. The council in cooperation
7 with the department shall annually agree on criteria specifying how the
8 amount of penalty shall be determined. A producer may appeal the withheld
9 portion of the refund as a penalty pursuant to section 3-107.

10 C. If the council is terminated, any monies in the council's accounts
11 shall be expended to meet existing legal obligations of the council. The
12 council shall expend any remaining monies on any program consistent with this
13 article.

14 D. The monies in the account may be invested pursuant to section
15 35-313. Interest earned on these monies shall be credited to the account.

16 Sec. 15. Section 41-712, Arizona Revised Statutes, is amended to read:

17 41-712. Telecommunications program office; state contractor;
18 cost of operation; employees; report; exception

19 A. The director shall establish a telecommunications program office
20 within the department to enter into a primary contract with a corporation
21 authorized to do business in this state for the contractor to provide for the
22 installation and maintenance of telecommunication systems and to act as the
23 state's agent for telecommunication carrier services to the offices,
24 departments and agencies of this state. Each office, department and agency
25 of this state shall contract with the primary contractor through the
26 telecommunications program office and make payment to the primary contractor
27 for its telecommunications needs.

28 B. With the approval of the director, the telecommunications program
29 office may enter into more than one contract for each statewide
30 telecommunications product or service not provided by the primary contractor.

31 C. The director shall pay administrative costs of the
32 telecommunications program office, and each office, department or other state
33 agency shall pay from available monies the proportionate cost of
34 administration of the office as determined by the director. In carrying out
35 this subsection, the director shall only employ those contract managers,
36 telephone operators, help desk personnel and forensic investigators required
37 to oversee the primary contract and administer efficiently the
38 telecommunications program office.

39 D. The department shall prepare and submit an annual consolidated
40 telecommunications budget report to the joint legislative budget committee in
41 connection with its annual budget request showing the previous fiscal year's
42 actual payments and the next fiscal year's anticipated payments charged and
43 received by the primary contractor from state offices, departments and
44 agencies for telecommunications services.

1 E. All procurement pursuant to this section shall be as prescribed in
2 chapter 23 of this title unless otherwise provided by law.

3 F. Any contract involving the use of a state highway right-of-way is
4 subject to approval pursuant to sections 28-304, 28-363, 28-7045, 28-7048 and
5 28-7209.

6 G. THIS SECTION DOES NOT APPLY TO THE COTTON RESEARCH AND PROTECTION
7 COUNCIL ESTABLISHED BY SECTION 3-1082.

8 Sec. 16. Section 41-2501, Arizona Revised Statutes, is amended to
9 read:

10 41-2501. Applicability

11 A. This chapter applies only to procurements initiated after January
12 1, 1985 unless the parties agree to its application to procurements initiated
13 before that date.

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

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

28 D. 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 E of this section.

31 E. 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 F. 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 G. 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. All
2 other procurement, including contracts for the statewide administrator of the
3 program pursuant to section 36-2903, subsection B, shall be as prescribed by
4 this chapter.

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

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

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

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

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

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

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

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

44 P. This chapter is not applicable to contracts entered into by the
45 department of economic security:

1 1. With a provider licensed or certified by an agency of this state to
2 provide child day care services or with a provider of family foster care
3 pursuant to section 8-503 or 36-554.

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

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

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

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

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

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

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

19 4. Domestic violence services pursuant to title 36, chapter 30,
20 article 1.

21 R. The department of health services is exempt from this chapter for
22 contracts for services of physicians at the Arizona state hospital.

23 S. Contracts for goods and services approved by the board of trustees
24 of the public safety personnel retirement system are exempt from this
25 chapter.

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

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

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

39 W. The Arizona state schools for the deaf and the blind are exempt
40 from this chapter when purchasing products through a cooperative that is
41 organized and operates in accordance with state law if such products are not
42 available on a statewide contract and are related to the operation of the
43 schools or are products for which special discounts are offered for
44 educational institutions.

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

3 Y. Notwithstanding section 41-2534, the director of the state
4 department of corrections may contract with local medical providers in
5 counties with a population of less than four hundred thousand persons
6 according to the most recent United States decennial census for the following
7 purposes:

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

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

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

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

27 1. The division does not pay any public monies to an authorized third
28 party.

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

30 3. The director has complied with the requirements prescribed in title
31 28, chapter 13 in selecting an authorized third party.

32 BB. This section does not exempt third-party authorizations pursuant
33 to title 28, chapter 13 from any other applicable law.

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

40 DD. The cotton research and protection council is exempt from this
41 chapter for procurements ~~relating to its aflatoxin control program and for~~
42 ~~contracts for research programs related to cotton production or protection.~~

43 EE. Expenditures of monies in the Arizona agricultural protection fund
44 established by section 3-3304 are exempt from this chapter.

1 FF. The Arizona commerce authority is exempt from this chapter, except
2 article 10 for the purpose of cooperative purchases. The authority shall
3 adopt policies, procedures and practices, in consultation with the department
4 of administration, that are similar to and based on the policies and
5 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.

APPROVED BY THE GOVERNOR APRIL 30, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2013.

Passed the House April 3, 2013,

Passed the Senate March 4, 2013,

by the following vote: 59 Ayes,

by the following vote: 26 Ayes,

1 Nays, 0 Not Voting

2 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2013,

at 9:27 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 30th day of

April, 2013

at 2:13 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1st day of May, 2013,

at 9:02 o'clock a M.

[Signature]
acting Secretary of State

S.B. 1092