

Senate Engrossed

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

CHAPTER 317

## **SENATE BILL 1438**

AN ACT

AMENDING TITLE 15, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-231.04; AMENDING SECTION 41-2752, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF EDUCATION INTELLECTUAL PROPERTY FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 15, chapter 2, article 2, Arizona Revised Statutes,  
3 is amended by adding section 15-231.04, to read:

4 15-231.04. Department of education intellectual property fund

5 THE DEPARTMENT OF EDUCATION INTELLECTUAL PROPERTY FUND IS ESTABLISHED  
6 CONSISTING OF MONIES RECEIVED PURSUANT TO SECTION 41-2752. THE DEPARTMENT  
7 SHALL ADMINISTER THE FUND. SUBJECT TO LEGISLATIVE APPROPRIATION, THE  
8 DEPARTMENT SHALL USE FUND MONIES TO IMPROVE THE MAINTENANCE, ADMINISTRATION  
9 AND DEVELOPMENT OF THE EDUCATION LEARNING AND ACCOUNTABILITY SYSTEM  
10 ESTABLISHED PURSUANT TO SECTION 15-249.

11 Sec. 2. Section 41-2752, Arizona Revised Statutes, is amended to read:

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

13 exceptions; definition

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 if the prices charged for products sold by the  
29 correctional industries are not less than the actual cost of producing and  
30 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 distributing.

40 6. The department of public safety.

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

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

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

7           10. Agreements executed by the department of economic security with  
8 other states to design, develop, install and operate support collection  
9 technology systems and related services. The department shall deposit,  
10 pursuant to sections 35-146 and 35-147, monies received pursuant to this  
11 paragraph in the public assistance collections fund established by section  
12 46-295.

13           11. Educational, vocational, treatment, training or work programs of  
14 the department of juvenile corrections and contracts between the department  
15 of juvenile corrections and this state, a political subdivision of this state  
16 or a private entity in order to provide employment or vocational educational  
17 experience.

18           12. The aflatoxin control technologies of the cotton research and  
19 protection council.

20           13. The lease or sublease of lands or buildings by the department of  
21 economic security pursuant to section 41-1958.

22           14. The Arizona commerce authority.

23           15. The Arizona game and fish commission, but only for the sale of  
24 goods or services and not firearms.

25           16. The lease or sublease of lands or buildings by the department of  
26 child safety pursuant to section 8-460.

27           17. Agreements executed by the department of child safety with other  
28 states to design, develop, install and operate support collection technology  
29 systems and related services. The department shall deposit, pursuant to  
30 sections 35-146 and 35-147, monies received pursuant to this paragraph in the  
31 child safety collections fund established by section 8-461.

32           18. THE SALE OR LEASE OF SOFTWARE, COMPUTER SYSTEMS OR INTELLECTUAL  
33 PROPERTY DEVELOPED BY THE DEPARTMENT OF EDUCATION OR ASSOCIATED SERVICES  
34 PROVIDED FOR THE SALE OR LEASE OF SOFTWARE, COMPUTER SYSTEMS OR INTELLECTUAL  
35 PROPERTY BY THE DEPARTMENT OF EDUCATION. THE DEPARTMENT SHALL DEPOSIT,  
36 PURSUANT TO SECTIONS 35-146 AND 35-147, SIXTY PERCENT OF THE PROFIT FROM THE  
37 MONIES GENERATED PURSUANT TO THIS PARAGRAPH IN THE STATE GENERAL FUND AND THE  
38 REMAINING FORTY PERCENT DEPOSITED INTO THE DEPARTMENT OF EDUCATION  
39 INTELLECTUAL PROPERTY FUND ESTABLISHED BY SECTION 15-231.04. THE DEPARTMENT  
40 OF EDUCATION MAY NOT TRANSFER OR EXPEND MONIES OR PERSONNEL RESOURCES FOR THE  
41 PURPOSES OF MARKETING OR SOLICITING GOODS OR SERVICES AUTHORIZED PURSUANT TO  
42 THIS SECTION THAT WERE APPROPRIATED AND AUTHORIZED FOR OTHER FUNCTIONS AND  
43 PROGRAMS OF THE DEPARTMENT OF EDUCATION.

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

4           E. FOR THE PURPOSES OF THIS SECTION "PROFIT" MEANS ANY MONIES  
5 GENERATED FROM THE SALE OR LEASE OF GOODS AND SERVICES AFTER ACCOUNTING FOR  
6 THE COSTS PROVIDED BY THIS STATE INCLUDING APPROPRIATIONS FROM THE STATE  
7 GENERAL FUND.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House May 6, 2016,

Passed the Senate February 25, 2016,

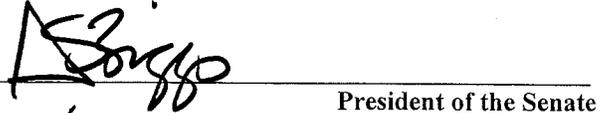
by the following vote: 55 Ayes,

by the following vote: 28 Ayes,

1 Nays, 4 Not Voting

0 Nays, 2 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

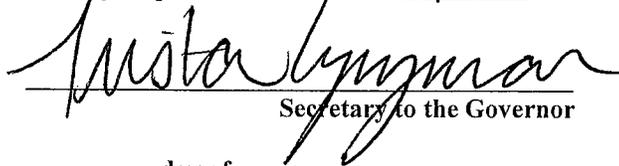
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10<sup>th</sup> day of May, 2016,

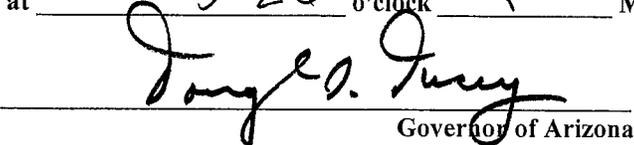
at 5:56 o'clock P. M.

  
Secretary to the Governor

Approved this 17<sup>th</sup> day of

May, 2016,

at 5:26 o'clock P. M.

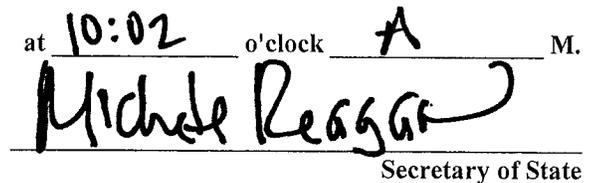
  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18<sup>th</sup> day of May, 2016,

at 10:02 o'clock A M.

  
Secretary of State

S.B. 1438