

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

1 Sec. 2. Section 3-108, Arizona Revised Statutes, is amended to read:
2 3-108. Administrative support fund; use; exemption

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

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

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

17 Sec. 3. Section 3-204, Arizona Revised Statutes, is amended to read:
18 3-204. Summary abatement of imminently dangerous nuisance;
19 procedure; expense; lien; public sale; reimbursement
20 costs and penalties to state for certain abatements;
21 civil penalty

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

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

44 C. If the nuisance is abated by the director, the expense shall be
45 borne by the state, but, when the abatement does not involve the destruction
46 of the plant or thing and it has some value after the crop pest or disease

1 has been eradicated, ~~then~~ the state shall have a first claim and lien thereon
2 for the payment of expenses incurred in the abatement of the nuisance.

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

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

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

20 G. If the director is required to abate the nuisance of ~~cotton or~~
21 ~~cotton stubble which is not destroyed before a date established by the~~
22 ~~director or is required to abate the nuisance of cotton planted before a date~~
23 ~~established by the director, unless the director waives such dates due to~~
24 ~~variations in weather conditions,~~ STUB, SOCA OR VOLUNTEER COTTON following
25 the refusal by the owner or person in charge or control of the nuisance to do
26 so, the owner or person in charge or control of the nuisance shall reimburse
27 the department for the actual costs of the state's abatement of the nuisance.
28 An injunction shall not be granted to stay this state from abating the
29 nuisance. ~~To collect the costs of reimbursement, the director may either~~
30 ~~request reimbursement from the cotton research and protection council under~~
31 ~~programs of the council to abate cotton fields or from the owner or person in~~
32 ~~charge.~~ THE DIRECTOR MAY REQUEST THE COTTON RESEARCH AND PROTECTION COUNCIL
33 TO PROVIDE MONIES PURSUANT TO SECTION 3-1085, SUBSECTION B TO HELP DEFRAY THE
34 DEPARTMENT'S COST OF ABATEMENT UNTIL THE OWNER OR PERSON IN CHARGE REIMBURSES
35 THE DEPARTMENT FOR THOSE COSTS. If the actual costs of abatement are not
36 paid within ten days after the owner or person in charge receives notice of
37 the amount of the costs, the director may impose a CIVIL penalty of fifty per
38 cent of the costs of abatement. ~~and may prepare and file or record in the~~
39 ~~office of the county recorder of the county where the land is situated a~~
40 ~~notice of lien, setting forth the amount of the unpaid costs, the amount of~~
41 ~~the penalty and the name of the owner or person in charge. Upon such~~
42 ~~recording, the amount required to be reimbursed becomes a lien on the land~~
43 ~~subordinate only to any lien for state and local taxes. The director may~~
44 ~~issue a notice of abatement penalty to be applied to any rebate authorized~~
45 ~~pursuant to section 3-1083, subsection B, paragraph 4 and section 3-1087,~~
46 ~~subsection B. All penalties collected under this section shall be deposited~~

1 ~~in the cotton research and protection council fund established by section~~
2 ~~3-1085.~~ AT THE DIRECTOR'S REQUEST, THE ATTORNEY GENERAL SHALL FILE AN ACTION
3 IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES ASSESSED PURSUANT TO THIS
4 SUBSECTION. ALL CIVIL PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE
5 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE DANGEROUS PLANTS,
6 PESTS AND DISEASES TRUST FUND ESTABLISHED BY SECTION 3-214.01.

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

9 3-204.01. Council plow-up request; civil penalty

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

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

24 C. A PRODUCER MAY APPEAL TO THE COUNCIL THE ORDER OF THE COUNCIL FOR
25 THE PLOW UP OF NONCOMPLIANT COTTON FIELDS BY THE DEPARTMENT PURSUANT TO TITLE
26 41, CHAPTER 6, ARTICLE 10.

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

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

31 3-205. Abatement of nuisance not imminently dangerous;
32 procedure; lien; foreclosure; release of lien;
33 reimbursement costs and penalties to state for certain
34 abatements; civil penalty

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

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

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

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

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

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

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

1 ~~such recording, the amount required to be reimbursed becomes a lien on the~~
2 ~~land subordinate only to any lien for state and local taxes. The director~~
3 ~~may issue a notice of abatement penalty to be applied to any rebate~~
4 ~~authorized pursuant to section 3-1083, subsection B, paragraph 4 and section~~
5 ~~3-1087, subsection B.~~ AT THE DIRECTOR'S REQUEST, THE ATTORNEY GENERAL SHALL
6 FILE AN ACTION IN SUPERIOR COURT TO RECOVER CIVIL PENALTIES ASSESSED PURSUANT
7 TO THIS SUBSECTION. ALL CIVIL PENALTIES COLLECTED UNDER THIS SUBSECTION
8 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE DANGEROUS
9 PLANTS, PESTS AND DISEASES TRUST FUND ESTABLISHED BY SECTION 3-214.01.

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

11 3-206. Destruction of noninfected crops on abatement of
12 nuisance; procedure; hearing; evidence

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

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

35 C. The notice shall be personally served on the person, if ~~he~~ THE
36 PERSON is found within the county where the nuisance exists, at least five
37 days ~~prior to~~ BEFORE the hearing. If the person is a nonresident or cannot
38 be found in the county, ~~then~~ the notice shall be published in a newspaper
39 published in the county for at least seven days ~~prior to~~ BEFORE the hearing,
40 and in addition, a copy thereof shall be posted in a conspicuous place on or
41 at the premises involved for a like period.

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

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

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

7 3-214.01. Dangerous plants, pests and diseases trust fund

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

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

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

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

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

32 3-1082. Cotton research and protection council; membership;
33 terms; vacancy; compensation

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

- 37 1. Two each who are residents of:
 - 38 (a) Maricopa county.
 - 39 (b) Pinal county.
 - 40 (c) The Yuma, La Paz and Mohave counties area.
- 41 2. One each who is a resident of:
 - 42 (a) Pima county.
 - 43 (b) Cochise county.
 - 44 (c) The Graham and Greenlee counties area.

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

1 C. The term of office of council members is three years and expires on
2 December 31 of the appropriate year, but a member may continue to serve until
3 ~~his~~ A successor is appointed and assumes office. A member is eligible for a
4 second consecutive three-year term. A member who completes a second
5 consecutive three-year term is ineligible for reappointment for at least one
6 year. On the expiration of a term of a member or in the event of a vacancy,
7 a successor shall be appointed by the governor.

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

- 13 1. The member is no longer an active cotton producer.
- 14 2. The member is unable to perform ~~his~~ **THE** duties **OF OFFICE**.
- 15 3. ~~The absence of~~ The member **HAS BEEN ABSENT** from three consecutive
16 council meetings if the absences have not been excused by the council.
- 17 4. The member has ceased to reside in the county or county area that
18 the member was appointed to represent.

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

22 Sec. 9. Section 3-1083, Arizona Revised Statutes, is amended to read:
23 **3-1083. Council powers and duties**

24 A. The council shall:

- 25 1. Receive and disburse monies to be used in administering ~~the~~
26 ~~provisions of~~ this article.
- 27 2. Meet at least once each calendar quarter and more frequently on the
28 call of the chairman or by five members of the council.
- 29 3. Annually elect a chairman from among its members.
- 30 4. Elect a secretary and treasurer from among its members.
- 31 5. Establish an executive committee consisting of the chairman,
32 secretary and treasurer. **AN EXECUTIVE COMMITTEE MEMBER MAY NOT SERVE IN THE**
33 **SAME EXECUTIVE OFFICE FOR MORE THAN THREE YEARS.** The executive committee
34 shall act in accordance with the direction received from the council or, if
35 necessary, the executive committee shall act and bring the matter before the
36 full council at the next regular meeting of the council for review and
37 ratification.
- 38 6. Provide for a triennial audit of its accounts by a qualified public
39 accounting firm and additional audits as the council may require and make an
40 annual financial statement available to any producer and the auditor general
41 on request.
- 42 7. Keep and maintain a permanent record of its proceedings and make
43 these records available for public inspection for any lawful purpose.
- 44 8. Prepare an annual report of its activities, receipts and
45 expenditures. The report shall be submitted to the governor, other state
46 officers as the council determines and other persons in the cotton industry

1 in this state as may be appropriate. Copies of the annual report shall be
2 available to any interested cotton producer and the general public on
3 request.

4 9. Organize and administer any referendum called FOR under subsection
5 C, paragraph ~~6- 9~~ of this section.

6 ~~10. Reimburse the department for costs incurred in the abatement of
7 cotton fields under section 3-204, subsection G and section 3-205, subsection
8 G from monies authorized for abatement of cotton fields pursuant to section
9 3-1087, subsection B, if monies are available.~~

10 B. The council may authorize or contract for any of the following
11 programs:

12 1. Those research programs that are related to cotton production or
13 its protection, including cotton seed breeding or other research programs to
14 develop germplasm.

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

17 ~~3-~~ 2. Programs of aflatoxin control and cotton pest eradication.

18 ~~4-~~ 3. A program to refund REBATE A PORTION OF collected fees to
19 cotton producers to provide an incentive to abate PLOW UP cotton fields ~~to be
20 administered in cooperation with the department~~ IN A TIMELY MANNER.

21 ~~5-~~ 4. Any other programs that the council deems to be appropriate for
22 furthering the purposes of this article.

23 C. The council may:

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

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

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

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

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

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

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

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

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

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

13 11. Purchase **AND SELL** motor vehicles for the administration of its own
14 motor vehicle fleet and provide for its operation and maintenance.

15 12. **PROVIDE MONIES TO THE DEPARTMENT AS NECESSARY FOR THE ABATEMENT OF**
16 **A COTTON NUISANCE UNDER SECTION 3-204, SUBSECTION G OR SECTION 3-205,**
17 **SUBSECTION G OR FOR THE PLOW UP OF COTTON FIELDS PURSUANT TO SECTION 3-204.01**
18 **TO BE LOANED BY AND REPAID TO THE COUNCIL PURSUANT TO SECTION 3-1085,**
19 **SUBSECTION B.**

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

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

23 3-1084. Council staff; administrative services; reimbursement

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

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

31 C. The council may ~~also~~ enter into ~~an~~ interagency ~~agreement~~ **AGREEMENTS**
32 with the department to provide necessary administrative services to the
33 council, including:—

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

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

37 ~~3. Providing necessary financial and accounting services to the~~
38 ~~council, including the issuance of checks, payment of bills approved by the~~
39 ~~council, annual audits, expenditure and receipt reports whether monthly or~~
40 ~~annually, preparation of an annual budget and any other activities requested~~
41 ~~by the council.~~

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

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

45 ~~6. Accepting donated monies on behalf of the council to be credited to~~
46 ~~the account of the council.~~

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

2 ~~8. Providing any other administrative services which the council~~
3 ~~requests or finds necessary.~~

4 ~~D. If the department performs any function under this article, it acts~~
5 ~~as the agent of the council and has no authority or control over the council~~
6 ~~or the council's employees or assets. The council shall reimburse the~~
7 ~~department for any administrative services the department provides from the~~
8 ~~monies received under this article in an amount agreed on by the council and~~
9 ~~director. Monies received by the department shall be deposited, pursuant to~~
10 ~~sections 35-146 and 35-147, in the administrative support fund established by~~
11 ~~section 3-108.~~

12 Sec. 11. Section 3-1085, Arizona Revised Statutes, is amended to read:
13 3-1085. Cotton research and protection council fund; use by
14 director

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

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

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

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

32 Sec. 12. Section 3-1086, Arizona Revised Statutes, is amended to read:
33 3-1086. Fees; collection; plow-up enforcement; budget; civil
34 penalty

35 A. The council, on or before July 1 of each calendar year, shall
36 assess a fee of not to exceed one dollar per bale of cotton produced in this
37 state on land above twenty-seven hundred feet in elevation and not to exceed
38 five dollars per bale of cotton produced in this state on land twenty-seven
39 hundred feet in elevation or below. If the council finds that a program ~~of~~
40 ~~pink bollworm eradication~~ **TO CONTROL COTTON PESTS OR DISEASES** is necessary on
41 land above twenty-seven hundred feet in elevation, the council may raise the
42 fee not to exceed ~~five~~ **THREE** dollars per bale of cotton ~~for the duration of~~
43 ~~the eradication program or for four years after establishing the eradication~~
44 ~~program, whichever period expires first, after which the fee reverts to not~~
45 ~~more than one dollar per bale of cotton~~ **SUBJECT TO THE COUNCIL ADOPTING AN**
46 **ANNUAL BUDGET FOR THE PROGRAM.**

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

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

25 D. IF A PRODUCER FAILS TO COMPLY WITH THE REQUIREMENT TO PLOW UP
26 COTTON FIELDS ON ESTABLISHED DATES AS REQUIRED BY SECTION 3-1087, SUBSECTION
27 B AND RULES ADOPTED UNDER CHAPTER 2, ARTICLE 1 OF THIS TITLE, THE PRODUCER
28 FORFEITS THE FEE DESIGNATED AS A REBATE UNDER SUBSECTION B OF THIS SECTION
29 AND SECTION 3-1087, SUBSECTION B AND IS ALSO ASSESSED A CIVIL PENALTY OF ONE
30 HUNDRED DOLLARS FOR EACH ACRE NOT IN COMPLIANCE AS CERTIFIED BY THE COUNCIL.
31 THE REBATE MUST BE REMITTED IN FULL TO THE COUNCIL BY THE GIN RESPONSIBLE FOR
32 THE REMITTANCE OF THE REBATE. THE COUNCIL SHALL NOTIFY THE OWNER OR PERSON
33 IN CHARGE OF THE AMOUNT OF THE CIVIL PENALTY AND THE REQUIREMENT THAT IT MUST
34 BE PAID TO THE COUNCIL WITHIN THREE MONTHS. AT THE COUNCIL'S REQUEST, THE
35 ATTORNEY GENERAL SHALL FILE AN ACTION IN SUPERIOR COURT TO RECOVER CIVIL
36 PENALTIES ASSESSED PURSUANT TO THIS SUBSECTION. ALL MONIES COLLECTED UNDER
37 THIS SUBSECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147,
38 IN THE COTTON RESEARCH AND PROTECTION COUNCIL FUND ESTABLISHED BY SECTION
39 3-1085. THE COUNCIL MAY ADOPT RULES TO IMPLEMENT THIS SUBSECTION. A
40 PRODUCER MAY APPEAL TO THE COUNCIL THE FORFEITED REBATE OR THE ASSESSED
41 PENALTY APPLICABLE TO THE NONCOMPLIANT ACRES PURSUANT TO TITLE 41, CHAPTER 6,
42 ARTICLE 10. THE COUNCIL MAY REQUEST, UNDER SECTION 3-204.01, THAT THE
43 DEPARTMENT PLOW UP COTTON FIELDS NOT IN COMPLIANCE WITH SECTION 3-1087,
44 SUBSECTION B AND THE RULES ADOPTED UNDER CHAPTER 2, ARTICLE 1 OF THIS TITLE.

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

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

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

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

9 3-1086.02. Pink bollworm eradication program; fee;
10 registration; civil penalties

11 A. The council may organize and implement a pink bollworm eradication
12 program. The council shall conduct a referendum among eligible cotton
13 producers, as determined by the council, with the assistance of the
14 department and appropriate federal agencies, on the question of establishing
15 a program and fee. The ballot for the referendum shall present the question,
16 "Shall a pink bollworm eradication program and fee of not more than
17 thirty-two dollars per planted acre of cotton be established in this state?"
18 with spaces in which the voter can indicate a vote for or against the
19 proposal. The program may not be established unless either:

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

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

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

26 C. The authority to assess and collect the pink bollworm eradication
27 program fee under this section terminates four years after the date
28 establishing the pink bollworm eradication program statewide or four years
29 after the date implementing a pink bollworm eradication program in a region.

30 D. After a pink bollworm eradication program has been established
31 under this section:

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

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

44 3. Thirty days after the date established by rules adopted pursuant to
45 chapter 2, article 1 of this title for abatement of the nuisance of cotton or
46 cotton stubble, each producer shall register each acre of non-Bt cotton with

1 the council on forms prescribed by the council and shall pay the fee in full
2 to the council within sixty days of registration, unless the producer's
3 lender guarantees payment or other arrangements are made to the council's
4 satisfaction or under terms established by the council. The council, at its
5 discretion, may permit late registration.

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

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

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

17 Sec. 14. Section 3-1087, Arizona Revised Statutes, is amended to read:
18 3-1087. Deposit of fees; rebates; use of monies on termination

19 A. Monies collected pursuant to sections 3-1086, 3-1086.01 and
20 3-1086.02 shall be deposited and held in trust in the council's accounts,
21 ~~which are administered by the department as the council's agent,~~ and
22 disbursed as approved by the council for the purposes prescribed in this
23 article.

24 B. The council may use monies collected under section 3-1086 as a
25 ~~refund~~ REBATE to cotton producers to facilitate a program to provide
26 incentives for the ~~abatement of cotton fields~~ TIMELY PLOW UP OF COTTON FIELDS
27 ACCORDING TO THE DATES ESTABLISHED BY RULES ADOPTED PURSUANT TO CHAPTER 2,
28 ARTICLE 1 OF THIS TITLE TO MAINTAIN A HOST-FREE PERIOD. The council ~~may~~
29 SHALL issue a ~~refund~~ REBATE only on certification by the ~~Arizona department~~
30 ~~of agriculture~~ COUNCIL that the cotton field has been ~~abated according to~~
31 ~~plow up rules adopted under chapter 2, article 1 of this title~~ PLOWED UP.
32 With the approval of the cotton producer, ~~a refund~~ THE REBATE may be assigned
33 to a lending institution. ~~A portion of the refund may be withheld as a~~
34 ~~penalty for noncompliance with plow up rules. The council in cooperation~~
35 ~~with the department shall annually agree on criteria specifying how the~~
36 ~~amount of penalty shall be determined. A producer may appeal the withheld~~
37 ~~portion of the refund as a penalty pursuant to section 3-107.~~

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

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

44 Sec. 15. Section 41-712, Arizona Revised Statutes, is amended to read:
45 41-712. Telecommunications program office; state contractor;

46 cost of operation; employees; report; exception

1 A. The director shall establish a telecommunications program office
2 within the department to enter into a primary contract with a corporation
3 authorized to do business in this state for the contractor to provide for the
4 installation and maintenance of telecommunication systems and to act as the
5 state's agent for telecommunication carrier services to the offices,
6 departments and agencies of this state. Each office, department and agency
7 of this state shall contract with the primary contractor through the
8 telecommunications program office and make payment to the primary contractor
9 for its telecommunications needs.

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

13 C. The director shall pay administrative costs of the
14 telecommunications program office, and each office, department or other state
15 agency shall pay from available monies the proportionate cost of
16 administration of the office as determined by the director. In carrying out
17 this subsection, the director shall only employ those contract managers,
18 telephone operators, help desk personnel and forensic investigators required
19 to oversee the primary contract and administer efficiently the
20 telecommunications program office.

21 D. The department shall prepare and submit an annual consolidated
22 telecommunications budget report to the joint legislative budget committee in
23 connection with its annual budget request showing the previous fiscal year's
24 actual payments and the next fiscal year's anticipated payments charged and
25 received by the primary contractor from state offices, departments and
26 agencies for telecommunications services.

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

29 F. Any contract involving the use of a state highway right-of-way is
30 subject to approval pursuant to sections 28-304, 28-363, 28-7045, 28-7048 and
31 28-7209.

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

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

36 41-2501. Applicability

37 A. This chapter applies only to procurements initiated after January
38 1, 1985 unless the parties agree to its application to procurements initiated
39 before that date.

40 B. This chapter applies to every expenditure of public monies,
41 including federal assistance monies except as otherwise specified in section
42 41-2637, by this state, acting through a state governmental unit as defined
43 in this chapter, under any contract, except that this chapter does not apply
44 to either grants as defined in this chapter, or contracts between this state
45 and its political subdivisions or other governments, except as provided in
46 chapter 24 of this title and in article 10 of this chapter. This chapter

1 also applies to the disposal of state materials. This chapter and rules
2 adopted under this chapter do not prevent any state governmental unit or
3 political subdivision from complying with the terms of any grant, gift,
4 bequest or cooperative agreement.

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

8 D. The Arizona board of regents and the legislative and judicial
9 branches of state government are not subject to this chapter except as
10 prescribed in subsection E of this section.

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

15 F. The Arizona state lottery commission is exempt from this chapter
16 for procurement relating to the design and operation of the lottery or
17 purchase of lottery equipment, tickets and related materials. The executive
18 director of the Arizona state lottery commission shall adopt rules
19 substantially equivalent to the policies and procedures in this chapter for
20 procurement relating to the design and operation of the lottery or purchase
21 of lottery equipment, tickets or related materials. All other procurement
22 shall be as prescribed by this chapter.

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

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

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

40 J. The state transportation board and the director of the department
41 of transportation are exempt from this chapter other than section 41-2586 for
42 the procurement of construction or reconstruction, including engineering
43 services, of transportation facilities or highway facilities and any other
44 services that are directly related to land titles, appraisals, real property
45 acquisition, relocation, property management or building facility design and

1 construction for highway development and that are required pursuant to title
2 28, chapter 20.

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

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

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

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

21 O. Agreements negotiated by legal counsel representing this state in
22 settlement of litigation or threatened litigation are exempt from this
23 chapter.

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

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

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

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

33 4. With an eligible entity as defined by Public Law 105-285, section
34 673(1)(a)(i), as amended, for designated community services block grant
35 program monies and any other monies given to the eligible entity that
36 accomplishes the purpose of Public Law 105-285, section 672.

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

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

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

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

44 4. Domestic violence services pursuant to title 36, chapter 30,
45 article 1.

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

3 S. Contracts for goods and services approved by the board of trustees
4 of the public safety personnel retirement system are exempt from this
5 chapter.

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

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

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

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

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

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

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

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

38 Z. The department of environmental quality is exempt from this chapter
39 for contracting for procurements relating to the water quality assurance
40 revolving fund program established pursuant to title 49, chapter 2,
41 article 5. The department shall engage in a source selection process that is
42 similar to the procedures prescribed by this chapter. The department may
43 contract for remedial actions with a single selection process. The exclusive
44 remedy for disputes or claims relating to contracting pursuant to this
45 subsection is as prescribed by article 9 of this chapter and the rules

1 adopted pursuant to that article. All other procurement by the department
2 shall be as prescribed by this chapter.

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

6 1. The division does not pay any public monies to an authorized third
7 party.

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

9 3. The director has complied with the requirements prescribed in title
10 28, chapter 13 in selecting an authorized third party.

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

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

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

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

24 FF. The Arizona commerce authority is exempt from this chapter, except
25 article 10 for the purpose of cooperative purchases. The authority shall
26 adopt policies, procedures and practices, in consultation with the department
27 of administration, that are similar to and based on the policies and
28 procedures prescribed by this chapter for the purpose of increased public
29 confidence, fair and equitable treatment of all persons engaged in the
30 process and fostering broad competition while accomplishing flexibility to
31 achieve the authority's statutory requirements. The authority shall make its
32 policies, procedures and practices available to the public. The authority
33 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.