

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 332

SENATE BILL 1522

AN ACT

AMENDING SECTIONS 45-2425, 49-542.05, 49-543 AND 49-551, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; MAKING FUND TRANSFERS; RELATING TO ENVIRONMENTAL BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-2425, Arizona Revised Statutes, is amended to
3 read:
4 45-2425. Arizona water banking fund
5 A. The Arizona water banking fund is established and shall include
6 subaccounts based on funding sources. The authority shall administer the
7 banking fund in accordance with this chapter.
8 B. The banking fund consists of all of the following:
9 1. Monies appropriated from the state general fund by the legislature.
10 2. Reimbursement for the distribution of long-term storage credits,
11 collected by the authority in accordance with section 45-2457, subsection B,
12 paragraph 2.
13 3. Monies paid to the authority by the recipients of in lieu water at
14 a groundwater savings facility, in accordance with section 45-2455,
15 subsection C.
16 4. Monies collected in accordance with section 45-611, subsection C,
17 paragraph 3.
18 5. Monies deposited in the banking fund in accordance with section
19 48-3715.03, subsection B.
20 6. Monies paid to the authority by agencies that have entered into
21 interstate water banking agreements with the authority in accordance with
22 section 45-2471. **ALL MONIES RECEIVED THROUGH AN INTERSTATE WATER BANKING**
23 **AGREEMENT WITH THE STATE OF NEVADA THAT ARE NOT USED TO PURCHASE OR STORE**
24 **WATER OR OTHERWISE FULFILL CONTRACTUAL OBLIGATIONS WITH THE STATE OF NEVADA**
25 **ARE SUBJECT TO LEGISLATIVE APPROPRIATION.**
26 7. Monies paid to the authority by persons and Indian communities in
27 this state that have entered into water banking services agreements with the
28 authority in accordance with section 45-2458.
29 C. In addition to the monies prescribed in this section, the authority
30 may accept any gifts, grants or donations and deposit those monies in the
31 banking fund.
32 D. Monies in the banking fund are exempt from lapsing under section
33 35-190. On notice from the authority, the state treasurer shall invest and
34 divest monies in the fund as provided by section 35-313, and monies earned
35 from investment shall be credited to the banking fund. **THE AUTHORITY MAY**
36 **INVEST THE MONIES PAID TO THE AUTHORITY IN ACCORDANCE WITH SECTION 45-2471,**
37 **ARIZONA REVISED STATUTES, WITH THE STATE TREASURER PURSUANT TO SECTION**
38 **35-326, ARIZONA REVISED STATUTES.**
39 E. The authority may use the banking fund to pay all reasonable
40 expenses incurred in carrying out its duties and responsibilities in
41 accordance with this chapter.

1 Sec. 2. Section 49-542.05, Arizona Revised Statutes, is amended to
2 read:

3 49-542.05. Alternative fuel vehicles

4 A. Except for a vehicle fueled by hydrogen, the following apply:

5 1. Each original equipment manufactured alternative fuel vehicle that
6 is registered in or used to commute into area A or area B pursuant to section
7 49-542, subsection A is subject to the emissions inspection requirements
8 prescribed in this article including subsection C of this section.

9 2. Each alternative fuel vehicle that is not an original equipment
10 manufactured alternative fuel vehicle and that is registered in or used to
11 commute into area A or area B pursuant to section 49-542, subsection A is
12 subject to the emissions inspection requirements prescribed in this article
13 ~~except that the provisions of section 49-543, subsection B do not apply.~~

14 B. Except for a vehicle fueled by hydrogen, for each vehicle that is
15 registered in or used to commute into area A or area B as prescribed by
16 section 49-542, subsection A and that is either an original equipment
17 manufactured alternative fuel vehicle or an alternative fuel vehicle that is
18 not an original equipment manufactured alternative fuel vehicle, the vehicle
19 shall be tested before the vehicle is registered in this state as an
20 alternative fuel vehicle both while operating on gasoline and while operating
21 on alternative fuel, if applicable. In the fourth registration year and in
22 subsequent years, the vehicle shall be tested both while operating on
23 gasoline and while operating on alternative fuel, if applicable, pursuant to
24 the requirements of section 49-542.

25 C. For all emissions inspections before the fourth registration year
26 after purchase or lease of a new original equipment manufactured alternative
27 fuel vehicle, the owner of the vehicle shall do one of the following:

28 1. Have the vehicle inspected pursuant to this article.

29 2. Pay a twenty-five dollar fee in area A and a nine dollar fee in
30 area B. The owner shall pay this fee together with the registration fee for
31 the vehicle to the registering officer. The registering officer shall
32 deposit, pursuant to sections 35-146 and 35-147, these fees in the air
33 quality fund established by section 49-551. The registering officer may
34 enter into an intergovernmental agreement with another department of this
35 state to collect and deposit the fee. An owner who chooses to have an
36 emissions inspection pursuant to this article is not required to pay the fee
37 prescribed in this paragraph for that emissions test cycle.

38 D. The registration renewal notice required for the second and third
39 registration year of a new original equipment manufactured alternative fuel
40 vehicle shall include a notice to the vehicle owner that even though an
41 emissions inspection test is not required pursuant to subsection B of this
42 section the owner may choose to have an emissions inspection because of
43 vehicle emissions performance warranty limitations on emissions components of
44 the vehicle.

1 E. The department of environmental quality shall compile and maintain
2 data regarding the results of emissions inspections of all alternative fuel
3 vehicles pursuant to this article.

4 Sec. 3. Section 49-543, Arizona Revised Statutes, is amended to read:

5 49-543. Emissions inspection costs; disposition; fleet
6 inspection; certificates

7 A. The director shall fix, regulate and alter in accordance with this
8 section the fees required to be paid for the full costs of the vehicle
9 emissions inspection program pursuant to this article including
10 administration, implementation and enforcement.

11 ~~B. Except as provided in section 49-542.05, for all the emissions~~
12 ~~inspections prior to the sixth registration year after purchase or lease of a~~
13 ~~new vehicle, the owner of the vehicle shall do one of the following:~~

14 ~~1. Have the vehicle inspected pursuant to this article.~~

15 ~~2. Pay a twenty-five dollar fee in area A and a nine dollar fee in~~
16 ~~area B. The owner shall pay this fee together with the registration fee for~~
17 ~~the vehicle to the registering officer. The registering officer shall~~
18 ~~deposit, pursuant to sections 35-146 and 35-147, these fees in the air~~
19 ~~quality fund established by section 49-551. The registering officer may~~
20 ~~enter into an intergovernmental agreement with another department of this~~
21 ~~state to collect and deposit the fee. An owner who chooses to have an~~
22 ~~emissions inspection pursuant to this article is not required to pay the fee~~
23 ~~prescribed in this paragraph for that emissions test cycle.~~

24 ~~C. B.~~ Except as provided in section 49-542.05, the registration
25 renewal notice required for the second through fifth registration year of a
26 new vehicle shall include a notice to the vehicle owner that even though an
27 emissions inspection test is not required pursuant to section 49-542,
28 subsection J, paragraph 2, subdivision (d) the owner may choose to have an
29 emissions inspection because of vehicle emissions performance warranty
30 limitations on emissions components of the vehicle.

31 ~~D. C.~~ The fees charged for official emissions inspection shall be
32 uniform as applied to each class of vehicle which shall be defined by the
33 director. Except for fees collected by the director pursuant to section
34 49-546, the inspection fees required to be paid pursuant to this article may
35 be collected with the registration fee by the registering officer at the time
36 and place of motor vehicle registration pursuant to title 28, chapter 7,
37 article 5 and deposited, pursuant to sections 35-146 and 35-147, in the
38 emissions inspection fund in accordance with the rules adopted by the
39 director or may be collected by the independent contractor at the time of
40 inspection by means of an approved check or cash.

41 ~~E. D.~~ Any person, except a person who has been issued a certificate
42 of waiver pursuant to section 49-542, subsection L, whose vehicle has been
43 inspected at an official emissions inspection station ~~shall~~, if the vehicle
44 was not found to comply with the minimum standards, **SHALL** have the vehicle
45 repaired, including recommended repair or replacement of emissions control
46 devices as a result of tampering, and have the right within sixty consecutive

1 calendar days but not thereafter to return the vehicle for one reinspection
2 without charge. The department may provide for additional reinspections
3 without charge. A vehicle shall not be deemed to pass a reinspection unless
4 the tampering discovered during the tampering inspection is repaired with new
5 or reconditioned emissions control devices.

6 ~~F.~~ E. The department shall issue certificates of inspection to owners
7 of fleet emissions inspection stations. Each certificate shall be validated
8 by the fleet emissions inspection stations in a manner required by the
9 director at the time that each owner's fleet vehicle has been inspected or
10 has passed inspection. The validated certificate of inspection shall
11 indicate at the time of registration that the owner's fleet vehicle has been
12 inspected and that the vehicle has passed inspection.

13 ~~G.~~ F. The director shall fix an emissions inspection fee before
14 inspection certificates may be issued to the owner of any fleet emissions
15 inspection station. Such fee shall be uniform for each inspection
16 certificate issued and shall be based ~~upon~~ ON the director's estimated costs
17 to the state of administering and enforcing ~~the provisions of~~ this article as
18 they apply to fleet emissions inspection stations and the vehicles inspected
19 in fleet emissions inspection stations. The director shall deposit, pursuant
20 to sections 35-146 and 35-147, all such monies collected by the director
21 pursuant to this article in the emissions inspection fund.

22 Sec. 4. Section 49-551, Arizona Revised Statutes, is amended to read:

23 49-551. Air quality fee; air quality fund; purpose

24 A. Every person who is required to register a motor vehicle in this
25 state pursuant to section 28-2153 shall pay, in addition to the registration
26 fee, an annual air quality fee at the time of vehicle registration of one
27 dollar fifty cents. Unless and until the United States environmental
28 protection agency grants a waiver for diesel fuel pursuant to section
29 211(c)(4) of the clean air act, every person who is required to register a
30 diesel powered motor vehicle in this state with a declared gross weight as
31 defined in section 28-5431 of more than eight thousand five hundred pounds
32 and every person who is subject to an apportioned fee for diesel powered
33 motor vehicles collected pursuant to title 28, chapter 7, articles 7 and 8
34 shall pay an additional apportioned diesel fee of ten dollars.

35 B. The registering officer shall collect the fees and immediately
36 deposit, pursuant to sections 35-146 and 35-147, the air quality fees in the
37 air quality fund established pursuant to subsection C of this section and
38 shall deposit the diesel fees in the voluntary vehicle repair and retrofit
39 program fund established pursuant to section 49-474.03.

40 C. An air quality fund is established consisting of monies received
41 pursuant to this section, section 49-542.05, ~~section 49-543~~, gifts, grants
42 and donations, and monies appropriated by the legislature. The department of
43 environmental quality shall administer the fund. Monies in the fund are
44 exempt from the provisions of section 35-190 relating to the lapsing of
45 appropriations. Interest earned on monies in the fund shall be credited to
46 the fund. ~~Monies in the fund that are received pursuant to section 49-543~~

1 ~~shall be placed in a separate account and shall only be used for those~~
2 ~~purposes that are prescribed in subsection F of this section or section~~
3 ~~49-551.01. Except as provided in subsection F of this section,~~ Monies in the
4 air quality fund shall be used, subject to legislative appropriation, for:

5 1. Air quality research, experiments and programs conducted by or for
6 the department for the purpose of bringing area A or area B into or
7 maintaining area A or area B in attainment status, improving air quality in
8 areas of this state outside area A or area B and reducing emissions of
9 particulate matter, carbon monoxide, oxides of nitrogen, volatile organic
10 compounds and hazardous air pollutants throughout the state.

11 2. Monitoring visible air pollution and developing and implementing
12 programs to reduce emissions of pollutants that contribute to visible air
13 pollution in counties with a population of four hundred thousand persons or
14 more.

15 3. Developing and adopting rules in compliance with sections
16 49-426.03, 49-426.04, 49-426.05 and 49-426.06.

17 D. The department shall transfer four hundred thousand dollars from
18 the air quality fund to the department of administration for the purposes
19 prescribed by section 49-588 in eight installments in each of the first eight
20 months of a fiscal year.

21 E. This section does not apply to an electrically powered golf cart or
22 an electrically powered vehicle.

23 ~~F. The disbursement of monies for air quality control programs and~~
24 ~~measures from the monies received pursuant to section 49-543 shall be~~
25 ~~pursuant to this subsection. The monies shall be used for programs and~~
26 ~~measures in counties that contain a portion of area A or area B. The~~
27 ~~department may use up to five per cent of the annual revenues for the costs~~
28 ~~of administration. The balance shall be used for funding the following:~~

29 1. ~~A voluntary lawn and garden equipment emissions reduction program~~
30 ~~established pursuant to section 49-474.02. Five per cent of the monies shall~~
31 ~~be used for this purpose.~~

32 2. ~~A voluntary vehicle repair and retrofit program established~~
33 ~~pursuant to section 49-474.03. Fifteen per cent of the monies shall be used~~
34 ~~for this purpose.~~

35 3. ~~The diesel vehicle low emissions incentive grant program~~
36 ~~established by section 49-551.01. Thirty per cent of the monies shall be~~
37 ~~used for this purpose. Grants for fuels shall not exceed the incremental~~
38 ~~cost differential from conventional diesel fuel, excluding taxes.~~

39 4. ~~The voluntary accelerated purchase of tier 2 and tier 3 equipment~~
40 ~~described in section 49-558. Grant funding shall not exceed one-half of the~~
41 ~~incremental cost difference between the initial capital cost of tier 2 and~~
42 ~~tier 3 equipment and conventional diesel equipment. Ten per cent of the~~
43 ~~monies shall be used for this purpose.~~

44 5. ~~Fifteen per cent for making grants to fund the following~~
45 ~~activities:~~

46 (a) ~~A travel reduction ordinance program.~~

1 ~~(b) A voluntary no drive day program.~~

2 ~~6. Any other measures or programs that have been evaluated by the~~
3 ~~department. The evaluation shall include at least a review and assessment of~~
4 ~~the health and environmental impacts of the measures or programs. The~~
5 ~~department may evaluate measures or programs adopted by other jurisdictions.~~
6 ~~Twenty five per cent of the monies shall be used for this purpose. The~~
7 ~~department may make grants for the purposes of this paragraph.~~

8 ~~7. If the amount of monies authorized pursuant to paragraphs 1 through~~
9 ~~6 of this subsection have not been expended or encumbered in any fiscal year,~~
10 ~~the amount shall be used for funding any of the purposes described in this~~
11 ~~subsection.~~

12 ~~G. The annual report of the department shall include a section on the~~
13 ~~grants awarded pursuant to subsection F of this section.~~

14 Sec. 5. Underground storage tank assurance account; transfer of
15 monies; uses

16 Notwithstanding any other law, the administrative cap established in
17 section 49-1051, subsection B, paragraphs 2 and 3, Arizona Revised Statutes,
18 is suspended for fiscal year 2005-2006 and the department of environmental
19 quality may transfer \$6,031,000 from the assurance account of the underground
20 storage tank revolving fund for administrative costs of the underground
21 storage tank leak prevention program and funding for the used oil program.

22 Sec. 6. Off-highway vehicle recreation fund; use

23 Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona
24 state parks board may spend up to \$692,100 from the Arizona state parks board
25 portion of the off-highway vehicle recreation fund in fiscal years 2005-2006
26 and 2006-2007 for parks board operating expenses.

27 Sec. 7. State parks enhancement fund; use

28 Notwithstanding section 41-511.11, Arizona Revised Statutes, or any
29 other law, all monies, except those necessary for the lease-purchase payments
30 for the Tonto Natural Bridge State Park, are available for the operating of
31 state parks in fiscal years 2005-2006 and 2006-2007 as appropriated by the
32 legislature in the general appropriations act.

33 Sec. 8. Arizona water protection fund; use

34 Notwithstanding section 45-2112, subsection B, Arizona Revised
35 Statutes, the annual appropriation from the state general fund to the Arizona
36 water protection fund for fiscal year 2005-2006 shall be as specified in the
37 general appropriations act.

38 Sec. 9. In lieu fees; deposit

39 A. Notwithstanding sections 49-543 and 49-551, Arizona Revised
40 Statutes, or any other law, the first \$10,000,000 in revenues received from
41 in lieu fees pursuant to section 49-543, subsection B, paragraph 2, Arizona
42 Revised Statutes, shall be deposited in the state general fund in fiscal year
43 2005-2006.

1 B. Notwithstanding sections 49-543 and 49-551, Arizona Revised
2 Statutes, or any other law, \$500,000 of in lieu fee revenues received in
3 excess of \$10,000,000 shall be deposited in the air quality fund in fiscal
4 year 2005-2006. Monies deposited in the air quality fund pursuant to this
5 subsection shall be appropriated to the department of environmental quality
6 in fiscal year 2005-2006 for operating costs.

7 C. Notwithstanding sections 49-543 and 49-551, Arizona Revised
8 Statutes, or any other law, in lieu fee revenues received in excess of
9 \$10,500,000 shall be deposited in the air quality fund in fiscal year
10 2005-2006. Monies deposited in the air quality fund pursuant to this
11 subsection shall be appropriated to the department of environmental quality
12 in fiscal year 2005-2006 for grants to school districts to purchase new
13 school buses and diesel particulate filters. The grants for new school buses
14 shall not exceed the incremental cost difference between conventional diesel
15 fuel school buses, excluding taxes, and new buses that are fueled by
16 compressed natural gas. At least forty per cent of the monies appropriated
17 pursuant to this subsection shall be used for new compressed natural gas
18 buses and at least forty per cent of the monies appropriated pursuant to this
19 subsection shall be used for diesel particulate filters. The remaining
20 monies of the appropriation may be used by the department of environmental
21 quality for purposes prescribed for the air quality fund pursuant to section
22 49-551, Arizona Revised Statutes. Monies appropriated pursuant to this
23 subsection that are unencumbered or unexpended on June 30, 2008 shall revert
24 to the state general fund.

25 Sec. 10. Appropriations; purpose; reversion

26 A. Notwithstanding section 5-323, Arizona Revised Statutes, or any
27 other law, the sum of \$800,000 is appropriated from the watercraft licensing
28 fund established pursuant to section 5-323, Arizona Revised Statutes, in
29 fiscal year 2005-2006 and the sum of \$796,000 is appropriated from the
30 watercraft licensing fund in fiscal year 2006-2007 to the department of
31 administration to comply with this state's obligation relating to the
32 settlement of the Zuni Indian Tribe's water rights claims pursuant to the
33 Zuni Indian Tribe Water Rights Settlement Act of 2003 (P.L. 108-34).

34 B. The amounts appropriated in subsection A revert to the watercraft
35 licensing fund if the secretary of the interior does not publish notice in
36 the Federal Register on or before December 31, 2006 that the terms of the
37 settlement have been satisfied.

38 Sec. 11. WQARF transfer from corporate income tax; suspension

39 Notwithstanding section 49-282, subsection B, Arizona Revised Statutes,
40 or any other law, the state treasurer shall transfer only \$11,000,000 from
41 the corporate income tax collected pursuant to title 43, chapter 11, article
42 2, Arizona Revised Statutes, to the water quality assurance revolving fund in
43 fiscal year 2005-2006. These monies are in addition to revenues from sources
44 specified in section 49-282, subsection A, paragraphs 2 through 11 and 13,
45 Arizona Revised Statutes. No monies from the transaction privilege and
46 severance tax clearing account established pursuant to section 42-5029,

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1 subsection D, paragraph 4, Arizona Revised Statutes, shall be deposited in
2 the water quality assurance revolving fund in fiscal year 2005-2006.

3 Sec. 12. Effective date

4 Sections 49-542.05, 49-543 and 49-551, Arizona Revised Statutes, as
5 amended by this act, are effective from and after June 30, 2006.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.