

REFERENCE TITLE: public-private partnership contracts

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1670**

Introduced by  
Senator Gowan

### AN ACT

AMENDING SECTION 41-2559, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 23, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2559.01; AMENDING SECTION 41-2752, ARIZONA REVISED STATUTES; RELATING TO PUBLIC-PRIVATE PARTNERSHIP CONTRACTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-2559, Arizona Revised Statutes, is amended to  
3 read:

4 41-2559. Public-private partnership contracts

5 A. The director may enter into public-private partnership contracts  
6 to finance the technology needs of the purchasing agency. The funding for  
7 services under a public-private partnership contract entered into pursuant  
8 to this section shall be contingent on and computed according to  
9 established performance standards and shall be attributable to the  
10 successful implementation of the technology program for the period  
11 specified in the contract. The director may issue requests for  
12 information and requests for proposals to solicit private partners that  
13 are interested in providing programs under a contract entered into  
14 pursuant to this section.

15 B. Each request for proposals issued pursuant to this section shall  
16 require each private partner to propose specific performance improvements  
17 and measurement approaches to be used to measure the value delivered by  
18 the vendor technology solution. The director shall include an assessment  
19 of the proposed value of the vendor technology solution in its evaluation  
20 criteria to select the best value solution for the purchasing agency.

21 C. A contract entered into between the director and an automated  
22 systems vendor **OR AN INFORMATION TECHNOLOGY VENDOR** shall provide for  
23 payment of fees on a contractually specific amount based on the  
24 achievement of measured performance improvements that are mutually agreed  
25 to by the contractor and the director and monies for payment of these fees  
26 are not subject to legislative appropriation. The following are subject  
27 to review and approval by the director:

28 1. The terms of contracts entered into pursuant to this section  
29 relating to the measurement of the performance improvement attributable to  
30 the vendor technology program.

31 2. Payment of fees based on the achievement of the established  
32 performance measures.

33 D. Before a public-private partnership contract is awarded pursuant  
34 to this section, the joint legislative budget committee staff shall be  
35 consulted with regard to the potential fiscal impact of the contract to  
36 the state. If the joint legislative budget committee staff finds a  
37 significant negative fiscal impact to the state, the staff shall report  
38 its findings to the joint legislative budget committee.

39 Sec. 2. Title 41, chapter 23, article 3, Arizona Revised Statutes,  
40 is amended by adding section 41-2559.01, to read:

41 41-2559.01. Public-private partnership contracts; procurement  
42 officer; joint legislative budget committee

43 A. **THE DIRECTOR MAY AUTHORIZE A PROCUREMENT OFFICER TO ENTER INTO A**  
44 **PUBLIC-PRIVATE PARTNERSHIP CONTRACT TO DO THE FOLLOWING:**

1           1. FINANCE OR PROVIDE CONSTRUCTION SERVICES, OPERATIONS SERVICES  
2 AND MAINTENANCE SERVICES OF BUILDINGS, INFRASTRUCTURE OR IMPROVEMENTS TO  
3 OR ON STATE PROPERTY.

4           2. FINANCE OR OTHERWISE FACILITATE THE DEVELOPMENT OF STATE  
5 PROPERTY.

6           3. DEVELOP PROGRAMS OR SERVICES THAT ENABLE A PURCHASING AGENCY TO  
7 EXPAND OR ENHANCE ANY OF ITS OPERATIONS, INCLUDING TRAINING, EMPLOYEE  
8 SUPPORT AND CUSTOMER SERVICE TO ACHIEVE DESIRED RESULTS THAT SERVE THE  
9 INTERESTS OF THIS STATE, ARE CONSISTENT WITH THE LEGAL AUTHORITY AND  
10 RESPONSIBILITIES OF THE PURCHASING AGENCY AND ARE BEST ACCOMPLISHED BY A  
11 PUBLIC-PRIVATE PARTNERSHIP CONTRACT.

12           B. A PUBLIC-PRIVATE PARTNERSHIP CONTRACT ISSUED PURSUANT TO THIS  
13 SECTION SHALL ONLY RESULT FROM A REQUEST FOR PROPOSALS ISSUED BY THE  
14 PURCHASING AGENCY AUTHORIZED TO SOLICIT PRIVATE PARTNERS INTERESTED IN  
15 PROVIDING CONSTRUCTION, DEVELOPMENT, SERVICES OR OTHER FUNCTIONS UNDER A  
16 PUBLIC-PRIVATE PARTNERSHIP CONTRACT ENTERED INTO PURSUANT TO THIS SECTION.  
17 THE DIRECTOR MAY AUTHORIZE A PROCUREMENT OFFICER TO ISSUE REQUESTS FOR  
18 INFORMATION AT ANY TIME PURSUANT TO THIS SECTION TO FACILITATE THE  
19 DEVELOPMENT OF OR MODIFICATIONS TO A REQUEST FOR PROPOSALS.

20           C. BEFORE ISSUING THE REQUEST FOR PROPOSALS PURSUANT TO SUBSECTION  
21 B OF THIS SECTION, THE PROCUREMENT OFFICER OF THE PURCHASING AGENCY  
22 SEEKING A PUBLIC-PRIVATE PARTNERSHIP CONTRACT SHALL SUBMIT TO THE DIRECTOR  
23 JUSTIFICATION REGARDING THE REASON THE PUBLIC-PRIVATE PARTNERSHIP CONTRACT  
24 APPROACH IS BEING SOUGHT AND WHY IT IS ESSENTIAL OR COMPARATIVELY  
25 ADVANTAGEOUS OVER OTHER CONTRACTING OPTIONS. THE JUSTIFICATION SHALL ALSO  
26 INCLUDE INFORMATION ABOUT ANY FINANCIAL OBLIGATIONS THE PURCHASING AGENCY  
27 WOULD HAVE UNDER THE PROPOSED PUBLIC-PRIVATE PARTNERSHIP CONTRACT AND  
28 WHETHER THE PURCHASING AGENCY'S CURRENT APPROPRIATIONS OR OTHER FUNDING  
29 SOURCES ARE SUFFICIENT TO MEET THOSE OBLIGATIONS. THE DIRECTOR SHALL  
30 DETERMINE IN WRITING WHETHER TO APPROVE THE JUSTIFICATION. IF APPROVED,  
31 THE DIRECTOR SHALL ADDRESS DETAILS REGARDING HOW THE PROCUREMENT IS TO BE  
32 SOLICITED AND AWARDED AND ANY LIMITS ASSOCIATED WITH THE DIRECTOR'S  
33 APPROVAL.

34           D. ANY REQUEST FOR PROPOSALS ISSUED PURSUANT TO THIS SECTION SHALL  
35 REQUIRE EACH RESPONDING POTENTIAL PRIVATE PARTNER TO PROPOSE SPECIFIC  
36 DETAILS OF THE DESIGN, CONSTRUCTION, SERVICES, PROGRAMS OR OTHER FUNCTIONS  
37 ASSOCIATED WITH ITS RESPONSE TO THE REQUEST FOR PROPOSALS. EACH  
38 RESPONDENT SHALL ALSO PROVIDE AN ASSESSMENT OF THE POTENTIAL VALUE OF ITS  
39 PROPOSAL TO THIS STATE, ALONG WITH IDENTIFYING METHODS OF FUNDING ITS  
40 EXPENSES BEYOND ANY STATE FUNDING THAT MAY HAVE BEEN SPECIFIED IN THE  
41 REQUEST FOR PROPOSALS. THE DIRECTOR SHALL INCLUDE AN ASSESSMENT OF THE  
42 PROPOSED VALUE OF EACH PROPOSAL AS A COMPONENT WITHIN THE EVALUATION  
43 CRITERIA DEVELOPED TO SELECT THE BEST SOLUTION. IN ANY RESPONSE TO A  
44 REQUEST FOR PROPOSALS PURSUANT TO THIS SECTION, POTENTIAL PRIVATE PARTNERS  
45 MAY NOT ASK THE PURCHASING AGENCY, THE DEPARTMENT OR THIS STATE TO

1 GUARANTEE FUNDING OR THE SECURING OF FUNDING IN CONNECTION WITH THE  
2 PROPOSAL. UNLESS SPECIFICALLY ADDRESSED IN THE REQUEST FOR PROPOSALS THAT  
3 THE PURCHASING AGENCY, THE DEPARTMENT OR THIS STATE IS SEEKING ASSISTANCE  
4 IN FUNDING ALTERNATIVES FOR SOME ASPECT OF THE PROPOSED PARTNERSHIP,  
5 POTENTIAL PRIVATE PARTNERS MAY NOT ASK IN ANY RESPONSE TO A REQUEST FOR  
6 PROPOSALS PURSUANT TO THIS SECTION FOR THE ASSISTANCE OF THE PURCHASING  
7 AGENCY, THE DEPARTMENT OR THIS STATE IN SECURING FUNDING IN CONNECTION  
8 WITH THE POTENTIAL PRIVATE PARTNER'S PROPOSAL.

9 E. A PUBLIC-PRIVATE PARTNERSHIP CONTRACT ENTERED INTO BETWEEN A  
10 PURCHASING AGENCY AND A PRIVATE SECTOR PARTNER SHALL ADDRESS, IF  
11 APPLICABLE, THE MATTER OF PAYMENT OF ANY FEES BY THE PURCHASING AGENCY TO  
12 THE PARTNER BASED ON THE ACHIEVEMENT OF CONTRACT REQUIREMENTS, MILESTONES  
13 OR GOALS THAT ARE MUTUALLY AGREED TO BY THE PARTNER AND THE AGENCY  
14 DIRECTOR. FEES COLLECTED PURSUANT TO THIS SUBSECTION ARE NOT SUBJECT TO  
15 LEGISLATIVE APPROPRIATION, ALTHOUGH FEE PROVISIONS AND NOTICE OF PAYMENT  
16 OF FEES SHALL BE REPORTED TO THE JOINT LEGISLATIVE BUDGET COMMITTEE IN A  
17 TIMELY MANNER.

18 F. A PUBLIC-PRIVATE PARTNERSHIP CONTRACT ENTERED INTO BETWEEN A  
19 PURCHASING AGENCY AND A PRIVATE SECTOR PARTNER SHALL ADDRESS, IF  
20 APPLICABLE, THE MATTER OF PAYMENT OF FEES BY THE PARTNER TO THE PURCHASING  
21 AGENCY TO COVER ADMINISTRATIVE OVERHEAD, GOODS, SERVICES, LEASING OF STATE  
22 LAND, BUILDINGS OR SPACE OR OTHER COSTS ASSOCIATED WITH THE PARTNERSHIP  
23 THAT ARE MUTUALLY AGREED TO BY THE PARTNER AND THE PURCHASING AGENCY  
24 DIRECTOR. MONIES OBTAINED BY THE PURCHASING AGENCY FROM THE PARTNER FROM  
25 ANY SUCH FEES SHALL BE SEPARATELY ACCOUNTED FOR BY THE PURCHASING AGENCY  
26 AND ARE NOT SUBJECT TO LEGISLATIVE APPROPRIATION AS LONG AS THEY ARE USED  
27 FOR MEETING THE OBLIGATIONS OF THIS STATE OR REQUIREMENTS OF THE  
28 PARTNERSHIP. FEE COLLECTIONS BY A PURCHASING AGENCY FROM A PUBLIC-PRIVATE  
29 PARTNERSHIP CONTRACT AND EXPENDITURES FROM SUCH COLLECTIONS SHALL BE  
30 REPORTED ANNUALLY TO THE JOINT LEGISLATIVE BUDGET COMMITTEE.

31 G. THE TERM OF A PUBLIC-PRIVATE PARTNERSHIP CONTRACT SHALL BE  
32 CLEARLY STATED IN ANY REQUEST FOR PROPOSALS AND IS AT THE DISCRETION OF  
33 THE DIRECTOR, IN CONSULTATION WITH THE PURCHASING AGENCY, FOR A PERIOD OF  
34 NOT MORE THAN TWENTY-FIVE YEARS. THE DIRECTOR'S DETERMINATION FOR  
35 CONTRACT LENGTH SHALL BE BASED ON ALL OF THE FOLLOWING:

36 1. THE REQUEST OF THE PURCHASING AGENCY INVOLVED FOLLOWING A  
37 CONSULTATION.

38 2. INFORMATION GATHERED ON MATTERS, INCLUDING THE FOLLOWING:

39 (a) REQUIRED LEAD TIME BEFORE OPERATIONS.

40 (b) EXPECTED TIME REQUIRED TO ACHIEVE A REASONABLE RETURN ON ANY  
41 INVESTMENTS MADE OR EXPENSES INCURRED RESULTING FROM A SIMILAR CONTRACT.

42 (c) THE CURRENT AND PROJECTED AVAILABILITY OF POTENTIAL VENDORS  
43 THAT CAN ADEQUATELY PERFORM THE SCOPE OF ENVISIONED WORK.

44 (d) THE COSTS AND RISKS ASSOCIATED WITH SHORT CONTRACT TIME FRAMES  
45 OR MULTIPLE RENEWAL PERIODS.

1 H. NOTWITHSTANDING SUBSECTION G OF THIS SECTION, IF THE DIRECTOR  
2 DETERMINES IT IS IN THE BEST INTERESTS OF THIS STATE, THE DIRECTOR MAY  
3 EXTEND, ON MUTUAL AGREEMENT WITH THE VENDOR, THE LENGTH OF A  
4 PUBLIC-PRIVATE PARTNERSHIP CONTRACT BEYOND WHAT WAS STATED IN THE REQUEST  
5 FOR PROPOSALS TO FACILITATE THE TRANSITION TO A NEW VENDOR RESULTING FROM  
6 A NEW REQUEST FOR PROPOSALS OR ANY OTHER ALLOWABLE PROCESS OR DECISION FOR  
7 CONTRACT TERMINATION PURSUANT TO THE TERMS OF THE CONTRACT. THE TERMS OF  
8 ANY EXTENSION PURSUANT TO THIS SUBSECTION SHALL BE SHARED WITH THE JOINT  
9 LEGISLATIVE BUDGET COMMITTEE BEFORE THE EXECUTION OF THE EXTENSION. IF  
10 THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF FINDS A SIGNIFICANT NEGATIVE  
11 FISCAL IMPACT TO THIS STATE, THE STAFF SHALL REPORT ITS FINDINGS TO THE  
12 JOINT LEGISLATIVE BUDGET COMMITTEE.

13 I. PUBLIC-PRIVATE PARTNERSHIP CONTRACTS ISSUED PURSUANT TO THIS  
14 SECTION SHALL ADDRESS THE OWNERSHIP OF ANY INFRASTRUCTURE OR BUILDINGS  
15 DEVELOPED AND CONSTRUCTED DURING A PUBLIC-PRIVATE PARTNERSHIP.

16 J. PUBLIC-PRIVATE PARTNERSHIP CONTRACTS ISSUED PURSUANT TO THIS  
17 SECTION ARE SUBJECT TO MODIFICATION WITHIN THE CONTRACTED TIME FRAME FOR  
18 THE PUBLIC-PRIVATE PARTNERSHIP AS LONG AS THE MODIFICATION FITS INTO THE  
19 SCOPE OF WORK INCLUDED IN THE REQUEST FOR PROPOSALS FROM WHICH THE  
20 CONTRACT WAS AWARDED. IF THE DIRECTOR DETERMINES THAT MODIFICATIONS  
21 INVOLVE NEW CONSTRUCTION THAT CANNOT BE CONSIDERED REQUIRED MAINTENANCE OR  
22 IMPROVEMENTS, NEW SERVICES OR OTHER NEW FUNCTIONS NOT CONTEMPLATED IN THE  
23 ORIGINAL REQUEST FOR PROPOSALS, A NEW REQUEST FOR PROPOSALS SHALL BE  
24 ISSUED. IF A PUBLIC-PRIVATE PARTNERSHIP CONTRACT INVOLVES THE USE OF  
25 MILITARY OR LAW ENFORCEMENT AIRCRAFT, VEHICLES, EQUIPMENT OR TECHNOLOGY,  
26 THE USE BY THE PURCHASING AGENCY OF NEW OR UPDATED AIRCRAFT, VEHICLES,  
27 EQUIPMENT OR TECHNOLOGY OR THE EXPANSION OF BUILDINGS, AIRFIELDS OR  
28 TRAINING AREAS TO ACCOMMODATE NEW OR UPDATED AIRCRAFT, VEHICLES, EQUIPMENT  
29 OR TECHNOLOGY, THAT USE OR EXPANSION SHALL BE CONSIDERED TO HAVE BEEN  
30 CONTEMPLATED IN THE ORIGINAL REQUEST FOR PROPOSALS.

31 K. PUBLIC-PRIVATE PARTNERSHIP CONTRACT MODIFICATIONS INVOLVING  
32 PAYMENT OF NEW OR INCREASED FEES SHALL BE REPORTED TO THE JOINT  
33 LEGISLATIVE BUDGET COMMITTEE WITH REGARD TO THE POTENTIAL FISCAL IMPACT OF  
34 THE CONTRACT ON THIS STATE. IF THE JOINT LEGISLATIVE BUDGET COMMITTEE  
35 STAFF FINDS A SIGNIFICANT NEGATIVE FISCAL IMPACT TO THIS STATE, THE STAFF  
36 SHALL REPORT ITS FINDINGS TO THE JOINT LEGISLATIVE BUDGET COMMITTEE.

37 L. THE DIRECTOR MAY DELEGATE ALL OR A PORTION OF THE PROCUREMENT  
38 ACTIVITIES DESCRIBED IN THIS SECTION TO A PURCHASING AGENCY SEEKING A  
39 PUBLIC-PRIVATE PARTNERSHIP CONTRACT. REGARDLESS OF ANY DELEGATION, BOTH  
40 OF THE FOLLOWING ARE SUBJECT TO REVIEW AND APPROVAL BY THE DIRECTOR:

- 41 1. THE TERMS OF CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION.
- 42 2. PAYMENT OF FEES BY THIS STATE BASED ON THE ACHIEVEMENT OF ANY  
43 PERFORMANCE MEASURES ESTABLISHED IN THE CONTRACT.

44 M. BEFORE A PUBLIC-PRIVATE PARTNERSHIP CONTRACT IS AWARDED PURSUANT  
45 TO THIS SECTION, THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL BE CONSULTED

1 WITH REGARD TO THE POTENTIAL FISCAL IMPACT OF THE CONTRACT TO THIS STATE.  
2 IF THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF FINDS A SIGNIFICANT  
3 NEGATIVE FISCAL IMPACT TO THIS STATE, THE STAFF SHALL REPORT ITS FINDINGS  
4 TO THE JOINT LEGISLATIVE BUDGET COMMITTEE.

5 N. A PUBLIC-PRIVATE PARTNERSHIP CONTRACT EXECUTED PURSUANT TO THIS  
6 SECTION MAY NOT:

7 1. CAUSE THIS STATE TO SHARE IN THE LIABILITIES OF THE PRIVATE  
8 SECTOR PARTNER.

9 2. EXEMPT THE PRIVATE SECTOR PARTNER FROM STATE LAW AND REGULATIONS  
10 UNLESS SUCH AN EXEMPTION IS SPECIFIED UNDER THE LAWS OF THIS STATE.

11 3. INVOLVE MANUFACTURING A GOOD OR DELIVERING A SERVICE THAT IS  
12 ALREADY READILY AVAILABLE TO THE PUBLIC SECTOR THROUGH EXISTING CONTRACT  
13 MECHANISMS UNLESS THE DIRECTOR DETERMINES A PUBLIC-PRIVATE PARTNERSHIP IS  
14 REQUIRED TO ADDRESS EITHER OF THE FOLLOWING:

15 (a) AN EXISTING OR PROJECTED SHORTFALL IN SUPPLY OR AVAILABILITY OF  
16 THE GOOD OR SERVICE.

17 (b) A LEVEL OF COMPLEXITY, TECHNICAL CAPACITY OR VOLUME OF REQUIRED  
18 PRODUCTION OR SERVICE THAT EXISTING CONTRACT MECHANISMS CANNOT PROVIDE  
19 PHYSICALLY OR CANNOT OFFER AT COSTS CONSISTENT WITH AN AGENCY'S  
20 LEGISLATIVE APPROPRIATIONS.

21 O. IN ORDER TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP CONTRACT, A  
22 PURCHASING AGENCY SHALL ALREADY POSSESS THE LEGAL AUTHORITY TO PROCURE THE  
23 GOODS, SERVICES OR CONSTRUCTION IT IS SEEKING. THIS SECTION ALONE DOES  
24 NOT PROVIDE ANY AGENCY WITH THE LEGAL AUTHORITY TO PROCURE GOODS, SERVICES  
25 OR CONSTRUCTION.

26 Sec. 3. Section 41-2752, Arizona Revised Statutes, is amended to  
27 read:

28 41-2752. State competition with private enterprise  
29 prohibited; exceptions; definition

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

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

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

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

43 2. Correctional industries established and operated by the state  
44 department of corrections if the prices charged for products sold by the  
45 correctional industries are not less than the actual cost of producing and

- 1 marketing the product plus a reasonable allowance for overhead and  
2 administrative costs.
- 3 3. The office of tourism.
- 4 4. The Arizona highways magazine, operated by the department of  
5 transportation.
- 6 5. Printing and distributing information to the public if the  
7 agency is otherwise authorized to do so, and printing or copying public  
8 records or other material relating to the public agency's public business  
9 and recovering through fees and charges the costs of such printing,  
10 copying and distributing.
- 11 6. The department of public safety.
- 12 7. The construction, maintenance and operation of state  
13 transportation facilities.
- 14 8. The development, distribution, maintenance, support, licensing,  
15 leasing or sale of computer software by the department of transportation.
- 16 9. Agreements executed by the Arizona health care cost containment  
17 system administration with other states to design, develop, install and  
18 operate information technology systems and related services or other  
19 administrative services pursuant to section 36-2925.
- 20 10. Agreements executed by the department of economic security with  
21 other states to design, develop, install and operate support collection  
22 technology systems and related services. The department shall deposit,  
23 pursuant to sections 35-146 and 35-147, monies received pursuant to this  
24 paragraph in the public assistance collections fund established by section  
25 46-295.
- 26 11. Educational, vocational, treatment, training or work programs  
27 of the department of juvenile corrections and contracts between the  
28 department of juvenile corrections and this state, a political subdivision  
29 of this state or a private entity in order to provide employment or  
30 vocational educational experience.
- 31 12. The aflatoxin control technologies of the cotton research and  
32 protection council.
- 33 13. The lease or sublease of lands or buildings by the department  
34 of economic security pursuant to section 41-1958.
- 35 14. The Arizona commerce authority.
- 36 15. The Arizona game and fish commission, but only for the sale of  
37 goods or services and not firearms.
- 38 16. The lease or sublease of lands or buildings by the department  
39 of child safety pursuant to section 8-460.
- 40 17. Agreements executed by the department of child safety with  
41 other states to design, develop, install and operate support collection  
42 technology systems and related services. The department shall deposit,  
43 pursuant to sections 35-146 and 35-147, monies received pursuant to this  
44 paragraph in the child safety collections fund established by section  
45 8-461.

1 18. The lease or sublease of state hospital lands or buildings by  
2 the department of health services.

3 19. The sale or lease of software, computer systems or intellectual  
4 property developed by the department of education or associated services  
5 provided for the sale or lease of software, computer systems or  
6 intellectual property by the department of education. The department  
7 shall deposit, pursuant to sections 35-146 and 35-147, sixty percent of  
8 the profit from the monies generated pursuant to this paragraph in the  
9 state general fund and the remaining forty percent in the department of  
10 education intellectual property fund established by section 15-231.04.  
11 The department of education may not transfer or expend monies or personnel  
12 resources for the purposes of marketing or soliciting goods or services  
13 authorized pursuant to this paragraph that were appropriated and  
14 authorized for other functions and programs of the department of  
15 education.

16 20. The lease or sublease of any real estate or related  
17 infrastructure by the department of emergency and military affairs  
18 pursuant to section 26-262, subsection K, paragraph 4.

19 21. PUBLIC-PRIVATE PARTNERSHIP CONTRACTS AWARDED PURSUANT TO  
20 SECTIONS 41-2559 AND 41-2559.01.

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

25 E. For the purposes of this section, "profit" means any monies  
26 generated from the sale or lease of goods and services after accounting  
27 for the costs paid by this state, including appropriations from the state  
28 general fund.

29 Sec. 4. Exemption from rulemaking

30 Notwithstanding any other law, for the purposes of this act, the  
31 department of administration is exempt from the rulemaking requirements of  
32 title 41, chapter 6, Arizona Revised Statutes, for eighteen months after  
33 the effective date of this act. Notwithstanding this exemption, the  
34 department of administration shall issue proposed rules and hold at least  
35 one public meeting regarding the proposed rules not earlier than one month  
36 after issuing the proposed rules.

37 Sec. 5. Emergency

38 This act is an emergency measure that is necessary to preserve the  
39 public peace, health or safety and is operative immediately as provided by  
40 law.