

Senate Engrossed

public-private partnership contracts

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

SENATE BILL 1670

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; REPEALING SECTION 41-2559.01, ARIZONA REVISED STATUTES; 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 joint committee on capital review; report

44 A. **THE DIRECTOR MAY AUTHORIZE A PROCUREMENT OFFICER TO ENTER INTO A**
45 **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 AND
17 THE JOINT COMMITTEE ON CAPITAL REVIEW IN A 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 AND THE JOINT
31 COMMITTEE ON CAPITAL REVIEW.

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

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

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

40 (a) REQUIRED LEAD TIME BEFORE OPERATIONS.

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

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

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

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

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

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

36 K. PUBLIC-PRIVATE PARTNERSHIP CONTRACT MODIFICATIONS INVOLVING
37 PAYMENT OF NEW OR INCREASED FEES SHALL BE REPORTED TO THE JOINT
38 LEGISLATIVE BUDGET COMMITTEE STAFF WITH REGARD TO THE POTENTIAL FISCAL
39 IMPACT OF THE CONTRACT ON THIS STATE. IF THE JOINT LEGISLATIVE BUDGET
40 COMMITTEE STAFF FINDS A SIGNIFICANT NEGATIVE FISCAL IMPACT TO THIS STATE,
41 THE STAFF SHALL REPORT ITS FINDINGS TO THE JOINT LEGISLATIVE BUDGET
42 COMMITTEE OR THE JOINT COMMITTEE ON CAPITAL REVIEW, AS APPROPRIATE.

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

5 1. THE TERMS OF CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION.

6 2. PAYMENT OF FEES BY THIS STATE BASED ON THE ACHIEVEMENT OF ANY
7 PERFORMANCE MEASURES ESTABLISHED IN THE CONTRACT.

8 3. THE ADVERTISING OF A PUBLIC-PRIVATE PARTNERSHIP REQUEST FOR
9 PROPOSALS. THE ADVERTISEMENT SHALL APPEAR NOT LATER THAN THIRTY DAYS
10 BEFORE THE SUBMISSION DEADLINE FOR THE PROPOSAL. THE DIRECTOR SHALL
11 ENSURE THAT THE PURCHASING AGENCY USES, IN ADDITION TO THE STATE
12 PROCUREMENT PORTAL, AT LEAST ONE PRINT OR DIGITAL PUBLICATION OR WEBSITE
13 THAT DOES THE FOLLOWING:

14 (a) TARGETS THE APPROPRIATE AUDIENCE.

15 (b) ADVERTISES THE BASIC DESCRIPTION OF THE REQUEST FOR PROPOSALS
16 ALONG WITH THE APPROPRIATE LINKS TO THE STATE PROCUREMENT PORTAL AND TO
17 INSTRUCTIONS ON HOW TO USE THE STATE PROCUREMENT PORTAL.

18 M. BEFORE A PUBLIC-PRIVATE PARTNERSHIP CONTRACT IS AWARDED PURSUANT
19 TO THIS SECTION, THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF SHALL BE
20 CONSULTED WITH REGARD TO THE POTENTIAL FISCAL IMPACT OF THE CONTRACT TO
21 THIS STATE. IF THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF FINDS A
22 SIGNIFICANT NEGATIVE FISCAL IMPACT TO THIS STATE, THE STAFF SHALL REPORT
23 ITS FINDINGS TO THE JOINT LEGISLATIVE BUDGET COMMITTEE OR THE JOINT
24 COMMITTEE ON CAPITAL REVIEW, AS APPROPRIATE.

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

27 1. CAUSE THIS STATE TO SHARE IN THE LIABILITIES OF THE PRIVATE
28 SECTOR PARTNER.

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

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

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

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

41 O. IN ORDER TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP CONTRACT, A
42 PURCHASING AGENCY SHALL ALREADY POSSESS THE LEGAL AUTHORITY TO PROCURE THE
43 GOODS, SERVICES OR CONSTRUCTION IT IS SEEKING. THIS SECTION ALONE DOES
44 NOT PROVIDE ANY AGENCY WITH THE LEGAL AUTHORITY TO PROCURE GOODS, SERVICES
45 OR CONSTRUCTION.

1 P. ANY LEASES OR SALES OF STATE-OWNED PROPERTY AS PART OF A
2 PUBLIC-PRIVATE PARTNERSHIP CONTRACT PURSUANT TO THIS SECTION, INCLUDING
3 ANY OPERATING AGREEMENT OR SIMILAR ARRANGEMENT, SHALL BE EXECUTED IN
4 ACCORDANCE WITH STATE LAW AND REPORTED TO THE JOINT LEGISLATIVE BUDGET
5 COMMITTEE STAFF IN A TIMELY MANNER.

6 Q. THE JOINT COMMITTEE ON CAPITAL REVIEW SHALL REVIEW THE FOLLOWING
7 CONSTRUCTION-RELATED PUBLIC-PRIVATE PARTNERSHIP ACTIVITIES:

8 1. PLANNED CONSTRUCTION ACTIVITIES AS PART OF A PUBLIC-PRIVATE
9 PARTNERSHIP IN EXCESS OF \$500,000 ON STATE-OWNED LAND.

10 2. PLANNED CONSTRUCTION ACTIVITIES AS PART OF A PUBLIC-PRIVATE
11 PARTNERSHIP IN EXCESS OF \$500,000, INCLUDING ANY AMOUNT OF MONIES
12 APPROPRIATED BY THIS STATE, REGARDLESS OF THE OWNERSHIP OF THE LAND.

13 R. AT LEAST NINETY DAYS BEFORE CONSTRUCTION IS PROJECTED TO BEGIN,
14 THE DEPARTMENT SHALL SUBMIT CONSTRUCTION PLANS TO THE JOINT COMMITTEE ON
15 CAPITAL REVIEW. THE JOINT COMMITTEE ON CAPITAL REVIEW MAY HOLD A HEARING
16 TO PROVIDE RECOMMENDATIONS AND ADVICE REGARDING THE PLANNED CONSTRUCTION.
17 THE DIRECTOR OR THE DIRECTOR'S DESIGNEE SHALL COOPERATE WITH THE
18 COMMITTEE'S STAFF REGARDING ANY REQUESTS FOR CONSTRUCTION-RELATED
19 DOCUMENTS.

20 S. ON OR BEFORE AUGUST 30, 2028, THE JOINT LEGISLATIVE BUDGET
21 COMMITTEE STAFF SHALL SUBMIT TO THE PRESIDENT OF THE SENATE, THE SPEAKER
22 OF THE HOUSE OF REPRESENTATIVES, THE MINORITY LEADER OF THE SENATE AND THE
23 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES A REPORT DETAILING THE USE
24 OF PUBLIC-PRIVATE PARTNERSHIPS ESTABLISHED PURSUANT TO THIS SECTION. THE
25 JOINT LEGISLATIVE BUDGET COMMITTEE STAFF SHALL ANALYZE INFORMATION THE
26 JOINT LEGISLATIVE BUDGET COMMITTEE STAFF RECEIVED PURSUANT TO THIS SECTION
27 AS WELL AS OTHER DATA THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF
28 REQUESTED FROM THE DEPARTMENT AND OTHER AGENCIES PARTICIPATING IN
29 PUBLIC-PRIVATE PARTNERSHIPS. STATE AGENCIES INVOLVED IN PUBLIC-PRIVATE
30 PARTNERSHIP MATTERS SHALL COOPERATE IN A TIMELY MANNER WITH THE DATA
31 REQUESTS. THE REPORT SHALL ALSO IDENTIFY AND EVALUATE POLICY OR FISCAL
32 ISSUES RELATING TO THE USE OF PUBLIC-PRIVATE PARTNERSHIPS IN THIS STATE
33 PURSUANT TO THIS SECTION.

34 Sec. 3. Delayed repeal

35 Section 41-2559.01, Arizona Revised Statutes, as added by this act,
36 is repealed from and after September 30, 2029.

37 Sec. 4. Section 41-2752, Arizona Revised Statutes, is amended to
38 read:

39 41-2752. State competition with private enterprise
40 prohibited; exceptions; definition

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

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

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

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

9 2. Correctional industries established and operated by the state
10 department of corrections if the prices charged for products sold by the
11 correctional industries are not less than the actual cost of producing and
12 marketing the product plus a reasonable allowance for overhead and
13 administrative costs.

14 3. The office of tourism.

15 4. The Arizona highways magazine, operated by the department of
16 transportation.

17 5. Printing and distributing information to the public if the
18 agency is otherwise authorized to do so, and printing or copying public
19 records or other material relating to the public agency's public business
20 and recovering through fees and charges the costs of such printing,
21 copying and distributing.

22 6. The department of public safety.

23 7. The construction, maintenance and operation of state
24 transportation facilities.

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

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

31 10. Agreements executed by the department of economic security with
32 other states to design, develop, install and operate support collection
33 technology systems and related services. The department shall deposit,
34 pursuant to sections 35-146 and 35-147, monies received pursuant to this
35 paragraph in the public assistance collections fund established by section
36 46-295.

37 11. Educational, vocational, treatment, training or work programs
38 of the department of juvenile corrections and contracts between the
39 department of juvenile corrections and this state, a political subdivision
40 of this state or a private entity in order to provide employment or
41 vocational educational experience.

42 12. The aflatoxin control technologies of the cotton research and
43 protection council.

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

3 14. The Arizona commerce authority.

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

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

8 17. Agreements executed by the department of child safety with
9 other states to design, develop, install and operate support collection
10 technology systems and related services. The department shall deposit,
11 pursuant to sections 35-146 and 35-147, monies received pursuant to this
12 paragraph in the child safety collections fund established by section
13 8-461.

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

16 19. The sale or lease of software, computer systems or intellectual
17 property developed by the department of education or associated services
18 provided for the sale or lease of software, computer systems or
19 intellectual property by the department of education. The department
20 shall deposit, pursuant to sections 35-146 and 35-147, sixty percent of
21 the profit from the monies generated pursuant to this paragraph in the
22 state general fund and the remaining forty percent in the department of
23 education intellectual property fund established by section 15-231.04.
24 The department of education may not transfer or expend monies or personnel
25 resources for the purposes of marketing or soliciting goods or services
26 authorized pursuant to this paragraph that were appropriated and
27 authorized for other functions and programs of the department of
28 education.

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

32 21. THROUGH OCTOBER 1, 2029, PUBLIC-PRIVATE PARTNERSHIP CONTRACTS
33 AWARDED PURSUANT TO SECTIONS 41-2559 AND 41-2559.01.

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

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

1 Sec. 5. Saving clause

2 The repeal of section 41-2559.01, Arizona Revised Statutes, by this
3 act, does not affect any contractual rights, contractual obligations or
4 contractual duties entered into pursuant to this act.

5 Sec. 6. Exemption from rulemaking

6 Notwithstanding any other law, for the purposes of this act, the
7 department of administration is exempt from the rulemaking requirements of
8 title 41, chapter 6, Arizona Revised Statutes, for eighteen months after
9 the effective date of this act. Notwithstanding this exemption, the
10 department of administration shall issue proposed rules and hold at least
11 one public meeting regarding the proposed rules not earlier than one month
12 after issuing the proposed rules.

13 Sec. 7. Emergency

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