

REFERENCE TITLE: **environment; 2011-2012; budget reconciliation**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SB 1624**

Introduced by  
Senators Biggs, Murphy, Pearce R, Pierce S, Smith: Allen, Antenori, Barto,  
Crandall, Driggs, Gould, Klein, Melvin, Nelson, Reagan, Shooter, Yarbrough  
(with permission of Committee on Rules)

**AN ACT**

**AMENDING SECTIONS 26-348, 45-2112 AND 49-282, ARIZONA REVISED STATUTES;  
MAKING APPROPRIATIONS; RELATING TO ENVIRONMENT 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 26-348, Arizona Revised Statutes, is amended to  
3 read:

4 26-348. Emergency notification of reportable releases

5 A. If a reportable release of an extremely hazardous substance listed  
6 under section 26-346 occurs from a facility at which a hazardous chemical is  
7 produced, used or stored, the owner or operator of the facility, except as  
8 excluded under ~~title~~ 40 Code of Federal Regulations ~~section 355.40~~ SECTIONS  
9 355.31 AND 355.32, in addition to any other notification required by law or  
10 rule, shall immediately orally notify the community emergency coordinator for  
11 the local emergency planning committee for any area likely to be affected by  
12 the reportable release, and the commission, by notifying the emergency  
13 response unit of the department of environmental quality and appropriate  
14 emergency responders designated by rule of the commission, in the manner  
15 prescribed by rule of the commission. Unless impracticable under the  
16 circumstances, this oral notification shall occur immediately after the  
17 facility emergency coordinator or his designee has knowledge of the  
18 reportable release. The notice of the reportable release shall include the  
19 following to the extent known at the time of the notice and as long as no  
20 delay in responding to the emergency results:

- 21 1. The specific location of the release.
- 22 2. The chemical name or identity of substances released and a  
23 description of the container or vessel from which the release occurred.
- 24 3. An estimate of the quantity of substances which were released into  
25 the environment.
- 26 4. The time and duration of the release.
- 27 5. The medium or media into which the release occurred.
- 28 6. Any known or anticipated acute or chronic health risks associated  
29 with the release and, if within the informant's knowledge, advice regarding  
30 medical attention necessary for exposed individuals.
- 31 7. Proper precautions to take as a result of the release, including  
32 evacuation and other proposed response actions.
- 33 8. The name and telephone number of the person or persons to be  
34 contacted for further information.

35 B. Within thirty days after the reportable release, the owner or  
36 operator of a facility where a release occurred requiring notification  
37 pursuant to this section shall submit to the local emergency planning  
38 committee and to the commission a written follow-up emergency notice stating  
39 and updating the information originally provided pursuant to subsection A of  
40 this section and including the following additional information:

- 41 1. Actions taken to respond to and contain the release.
- 42 2. Any known or anticipated acute or chronic health risks associated  
43 with the release.

1           3. If appropriate, advice regarding medical attention necessary for  
2 exposed individuals.

3           4. Measures which have been or will be taken at the facility to avoid  
4 a reoccurrence of similar releases.

5           C. After additional information becomes known, the owner or operator  
6 shall update the notice in writing within seven calendar days.

7           Sec. 2. Section 45-2112, Arizona Revised Statutes, is amended to read:  
8 45-2112. Funding sources

9           A. The fund shall consist of monies ~~from the following sources:~~

10           ~~1. Monies collected pursuant to section 48-3715.05.~~

11           ~~2. Amounts appropriated from the state general fund pursuant to~~  
12 ~~subsection B of this section.~~

13           ~~B. There is appropriated from the state general fund to the Arizona~~  
14 ~~water protection fund at the beginning of each fiscal year, an amount equal~~  
15 ~~to five million dollars minus the sum of the amounts deposited in the~~  
16 ~~previous fiscal year from the sources listed in subsection A, paragraph 1 of~~  
17 ~~this section. If the amounts received from the sources listed in subsection~~  
18 ~~A, paragraph 1 of this section, exceed five million dollars, the amount in~~  
19 ~~excess shall be credited against the general fund appropriation in subsequent~~  
20 ~~fiscal years. In no event shall the appropriation from the general fund~~  
21 ~~exceed five million dollars in any fiscal year.~~

22           ~~C.~~ B. In addition to the amounts prescribed in ~~subsections~~ SUBSECTION  
23 A ~~and B~~ of this section the fund may accept any gifts, grants or donations.

24           Sec. 3. Section 49-282, Arizona Revised Statutes, is amended to read:

25           49-282. Water quality assurance revolving fund

26           A. A water quality assurance revolving fund is established to be  
27 administered by the director. The fund consists of monies from the following  
28 sources:

29           1. Monies appropriated by the legislature.

30           2. Fertilizer license fees allocated under section 3-272, subsection  
31 B, paragraph 2.

32           3. Pesticide registration fees allocated under section 3-351,  
33 subsection D, paragraph 2.

34           4. The tax on water use pursuant to section 42-5302.

35           5. Water quality assurance fees collected under section 45-616.

36           6. Industrial discharge registration fees collected under section  
37 49-209.

38           7. Manifest resubmittal fees collected under section 49-922.01.

39           8. Hazardous waste facility registration fees collected under section  
40 49-929.

41           9. Hazardous waste resource recovery facility registration fees  
42 collected under section 49-930.

43           10. Monies recovered from responsible parties as remedial action costs.

44           11. Monies received as costs for a review of remedial actions at the  
45 request of a person other than the state.

12. Monies received from the collection of corporate income taxes under title 43, chapter 11, article 2 as prescribed by subsection B of this section.

13. Prospective purchaser agreement fees collected under section 49-285.01.

B. The water quality assurance revolving fund shall be assured of an annual funding amount of eighteen million dollars. Beginning July 1, ~~1999~~ 2011, as soon as practicable at the beginning of each fiscal year, the state treasurer shall transfer the sum of ~~fifteen~~ SEVEN million dollars to the water quality assurance revolving fund from the corporate income tax as collected pursuant to title 43, chapter 11, article 2. As custodian of the fund, the director shall certify to the governor, the state treasurer, the president of the senate and the speaker of the house of representatives at the end of that fiscal year the amount of monies deposited in the water quality assurance revolving fund pursuant to subsection A, paragraphs 1 through 9 of this section. At the end of the fiscal year the state treasurer shall adjust the ~~fifteen~~ SEVEN million dollar transfer of corporate income tax so that, when combined with monies deposited in the fund during that fiscal year pursuant to subsection A, paragraphs 1 through 9 of this section, the fund receives eighteen million dollars each fiscal year. This adjustment shall occur as part of the year-end book closing process for that fiscal year. If sufficient monies from the corporate income tax are not available to make any necessary upward adjustments as part of the year-end book closing, the state treasurer shall transfer the monies necessary to achieve the eighteen million dollar funding level from the transaction privilege and severance tax clearing account pursuant to section 42-5029, subsection D, paragraph 4, to the water quality assurance revolving fund. Any transfers prescribed by this subsection shall not be deducted from the net proceeds distributed pursuant to section 43-206.

C. At the beginning of each fiscal year, the director of environmental quality shall contract with the department of water resources for the transfer of up to eight hundred thousand dollars from the water quality assurance revolving fund to the Arizona water quality fund established by section 45-618 for support services for the water quality assurance revolving fund program. The support services provided for the water quality assurance revolving fund program shall be determined by the director of water resources in consultation with the director of environmental quality.

D. Monies in the fund are exempt from lapsing under section 35-190. Interest earned on monies in the fund shall be credited to the fund.

E. Monies from the water quality assurance revolving fund shall be used for the following purposes:

1. To provide state matching monies or to meet such other obligations as are prescribed by section 104 of CERCLA.

2. For all reasonable and necessary costs to implement this article, including:

1 (a) Taking remedial actions.

2 (b) Conducting investigations of an area to determine if a release or  
3 a threatened release of a hazardous substance exists.

4 (c) Conducting remedial investigations, feasibility studies, health  
5 effect studies and risk assessments.

6 (d) Identifying and investigating potentially responsible parties and  
7 allocating liability among the responsible parties.

8 (e) Funding orphan shares.

9 (f) Participating in the allocation process, administrative appeals  
10 and court actions.

11 (g) Funding the community advisory boards and other community  
12 involvement activities and the water quality assurance revolving fund  
13 advisory board.

14 (h) Remediating pollutants if necessary to remediate a hazardous  
15 substance.

16 3. For the reasonable and necessary costs of monitoring, assessing,  
17 identifying, locating and evaluating the degradation, destruction, loss of or  
18 threat to the waters of the state resulting from a release of a hazardous  
19 substance to the environment.

20 4. For the reasonable and necessary costs of administering the fund.

21 5. For the reasonable and necessary costs of administering the  
22 industrial discharge registration program under section 49-209.

23 6. For the costs of the water quality monitoring program described in  
24 section 49-225.

25 7. For compliance monitoring, investigation and enforcement activities  
26 pertaining to generating, transporting, treating, storing and disposing of  
27 hazardous waste. The amount to be used pursuant to chapter 5 of this title  
28 is limited to the amount received in the prior fiscal year from the hazardous  
29 waste facility registration fee.

30 8. For emergency response use as prescribed in section 49-282.02.

31 9. For all reasonable and necessary costs of the preparation and  
32 execution of prospective purchaser agreements.

33 10. For all reasonable and necessary costs of the voluntary remediation  
34 program.

35 11. To reimburse a political subdivision of this state for its  
36 reasonable, necessary and cost-effective remedial action costs incurred in  
37 response to a release or threat of a release of a hazardous substance or  
38 pollutants that presents an immediate and substantial endangerment to the  
39 public health or the environment. The political subdivision is not eligible  
40 for reimbursement until it has taken all reasonable efforts to obtain  
41 reimbursement from the responsible party and the federal government. No more  
42 than two hundred fifty thousand dollars may be spent from the fund for this  
43 purpose in any fiscal year.

44 12. For all reasonable and necessary costs incurred by the department  
45 pursuant to section 49-282.04 and the department of water resources pursuant

1 to section 45-605 for well inspections, remedial actions and review and  
 2 approval of well construction necessary to prevent vertical  
 3 cross-contamination. The director of environmental quality and the director  
 4 of water resources shall enter into an agreement for the transfer of these  
 5 costs.

6 13. For actions that are taken pursuant to section 49-282.03 before the  
 7 selection of a remedy.

8 14. For the reasonable and necessary costs of the conveyance, use or  
 9 discharge of water remediated as part of a remedy under this article.

10 15. For the reasonable and necessary costs incurred by the department  
 11 of health services at the request of the director of environmental quality to  
 12 assess and evaluate the effect of a release or threatened release of  
 13 hazardous substances to the public health or welfare and the environment.  
 14 The director of environmental quality and the director of the department of  
 15 health services shall enter into an agreement for the transfer of these  
 16 costs. The assessment and evaluation by the department of health services  
 17 may include:

18 (a) Performing health effect studies and risk assessments.

19 (b) Evaluating and calculating cleanup standards.

20 (c) Assisting in communicating health and risk issues to the public.

21 16. For the reasonable and necessary costs incurred by the department  
 22 of law to provide legal services at the request of the director of  
 23 environmental quality.

24 17. For the reasonable and necessary costs of contracting for the goods  
 25 and services to enable the director to implement this article.

26 18. For remediation demonstration projects that use bioremediation or  
 27 other alternative technologies. The department may not use more than five  
 28 hundred thousand dollars in a fiscal year pursuant to this paragraph.

29 F. Any political subdivision of this state which uses, used or may use  
 30 waters of the state for drinking water purposes or any state agency,  
 31 regardless of whether the political subdivision or state agency is a  
 32 responsible party, may apply to the director for monies from the fund to be  
 33 used for remedial action. An application to the fund for remedial action  
 34 costs shall not be treated as an admission that a political subdivision or an  
 35 agency of the state is a responsible party, but a political subdivision or a  
 36 state agency that is a responsible party is liable for remedial action costs  
 37 in the same manner, including reimbursement of the fund, as any other  
 38 responsible party. The political subdivision shall commit a local matching  
 39 amount at least equal to the amount sought from the fund.

40 G. The director of environmental quality shall prepare and submit a  
 41 budget for the water quality assurance revolving fund program and the  
 42 director of water resources shall prepare and submit a budget for the Arizona  
 43 water quality fund with the departments' budgets that are required pursuant  
 44 to section 35-111. The committees on appropriations of the house of  
 45 representatives and the senate shall review the water quality assurance

1 revolving fund budget and the Arizona water quality fund budget to ensure  
2 that the departments' expenditures are made in accordance with the  
3 legislature's intent and that the departments are making adequate progress  
4 toward accomplishing that intent.

5 Sec. 4. Off-highway vehicle recreation fund; use

6 Notwithstanding section 28-1176, Arizona Revised Statutes, the Arizona  
7 state parks board may spend up to \$692,100 from the Arizona state parks board  
8 portion of the off-highway vehicle recreation fund in fiscal year 2011-2012  
9 for parks board operating expenses.

10 Sec. 5. Underground storage tank assurance account; transfer of  
11 monies; uses

12 Notwithstanding any other law, the administrative cap established in  
13 section 49-1051, subsection B, paragraphs 2 and 3, Arizona Revised Statutes,  
14 is suspended for fiscal year 2011-2012, and the department of environmental  
15 quality may transfer \$6,531,000 from the assurance account of the underground  
16 storage tank revolving fund for administrative costs of the underground  
17 storage tank leak prevention program and for the used oil program.

18 Sec. 6. Agricultural fees; intent

19 A. Notwithstanding any other law, the director of the Arizona  
20 department of agriculture, with the assistance of the agriculture advisory  
21 council, may continue existing fees from 2010-2011 in fiscal year 2011-2012  
22 for services provided in fiscal year 2011-2012.

23 B. It is the intent of the legislature that the additional revenue  
24 generated by the fees established as prescribed in subsection A shall not  
25 exceed \$218,000 to the state general fund, \$113,000 to the pesticide fund and  
26 \$26,000 to the dangerous plants, pests and diseases fund.

27 Sec. 7. Environmental quality fees; increases; fiscal year  
28 2011-2012; intent; appropriation; exemption from rule  
29 making

30 A. Notwithstanding any other law, the director of the department of  
31 environmental quality may increase fees in fiscal year 2011-2012 for services  
32 in fiscal year 2011-2012.

33 B. It is the intent of the legislature that the additional revenue  
34 generated by the fee increases pursuant to subsection A shall not exceed  
35 \$5,779,100.

36 C. Monies received from fees pursuant to this section are appropriated  
37 to the department of environmental quality.

38 D. The department of environmental quality is exempt from the rule  
39 making requirements of title 41, chapter 6, Arizona Revised Statutes, for the  
40 purpose of establishing fees pursuant to this section until July 1, 2012.

41 Sec. 8. Water resources fees; deposit; fiscal year 2011-2012;  
42 intent; exemption from rule making

43 A. Notwithstanding any other law, the director of department of water  
44 resources may assess and collect a fee in fiscal year 2011-2012 from each  
45 municipality with a population of more than ten thousand persons according to

1 the most recent United States decennial census. The fee shall be assessed  
2 proportionally based on the population of each municipality. The director  
3 shall deposit monies collected pursuant to this subsection in the water  
4 resources fund established by section 45-117, Arizona Revised Statutes.

5 B. Notwithstanding any other law, the director of the department of  
6 water resources may increase fees in fiscal year 2011-2012 for services in  
7 fiscal year 2011-2012, except that no fees may be increased pursuant to this  
8 subsection for any municipality subject to the fee assessed and collected  
9 pursuant to subsection A of this section.

10 C. It is the intent of the legislature that the revenue generated by  
11 the fees collected pursuant to subsections A and B of this section shall not  
12 exceed \$7,000,000.

13 D. The department of water resources is exempt from the rule making  
14 requirements of title 41, chapter 6, Arizona Revised Statutes, for the  
15 purpose of establishing fees pursuant to this section until July 1, 2012.

16 Sec. 9. Law enforcement and boating safety fund; Arizona state  
17 parks board; operating expenditures

18 Notwithstanding section 5-383, Arizona Revised Statutes:

19 1. For fiscal year 2011-2012, available monies in the law enforcement  
20 and boating safety fund may only be granted to La Paz and Mohave counties.

21 2. All law enforcement and boating safety fund monies appropriated by  
22 the legislature to the Arizona state parks board in fiscal year 2011-2012  
23 above \$500,000 are available in fiscal year 2011-2012 for the operation of  
24 state parks.

25 Sec. 10. Arizona state parks board; availability of monies

26 Notwithstanding section 41-511.11, Arizona Revised Statutes, or any  
27 other law, all state parks enhancement fund monies are available in fiscal  
28 year 2011-2012 for the operation of state parks as appropriated by the  
29 legislature in the general appropriations act or for capital needs as  
30 determined by the Arizona state parks board with the prior approval of the  
31 joint committee on capital review to acquire and develop real property and  
32 improvements as state parks consistent with the purposes and objectives  
33 prescribed in section 41-511.03, Arizona Revised Statutes.

34 Sec. 11. Use of risk management revolving fund

35 In addition to the purposes specified in section 41-622, Arizona  
36 Revised Statutes, of the monies appropriated in the general appropriations  
37 act for fiscal year 2011-2012 to the department of administration from the  
38 risk management revolving fund, \$80,000 may be used in fiscal year 2011-2012  
39 to allow the Arizona navigable stream adjudication commission to pay one-time  
40 unpaid obligations relating to legal fees.

41 Sec. 12. Water quality fee fund; use

42 Notwithstanding section 49-210, subsection E, Arizona Revised Statutes,  
43 transfers from the water quality fee fund to the state general fund for  
44 fiscal year 2011-2012 shall be as specified in the general appropriations  
45 act.