

REFERENCE TITLE: department of agriculture omnibus act

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1168

Introduced by
Senators Arzberger, Aguirre, Landrum Taylor; Representatives Alvarez,
Burns J, Konopnicki; Senators Aboud, Flake, Garcia, Rios, Soltero;
Representative Lopes

AN ACT

AMENDING SECTION 3-268, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; AMENDING SECTIONS 3-1206, 3-1372, 3-1373, 3-1374, 3-1375, 3-1376, 3-1377, 3-1402 AND 41-2706, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-268, Arizona Revised Statutes, is amended to
3 read:

4 3-268. Inspection fees and reports; violations; classification

5 A. An inspection fee at the rate of twenty cents per ton shall be paid
6 to the department on commercial fertilizers distributed in this state by any
7 person subject to the following:

8 1. If more than one distributor is involved in the chain of
9 distribution, the one who sells directly to the ultimate consumer or to a
10 distributor exempted from a license is responsible for submitting the tonnage
11 report and the payment of inspection fees.

12 2. Distributors exempt from a license shall not be responsible for the
13 filing of tonnage reports or the payment of the inspection fees for products
14 purchased from a licensee and sold in the form in which received.

15 3. No inspection fees are required for commercial fertilizers sold or
16 exchanged between licensed manufacturers for further manufacturing or
17 processing, or for commercial fertilizers on which the inspection fee has
18 been paid by a previous manufacturer or distributor in the chain of
19 distribution.

20 4. The minimum inspection fee shall be two dollars per quarter.

21 5. The director ~~may~~, after opportunity for A hearing, MAY decrease or
22 increase the inspection fee provided in this section, but at no time shall
23 the rate exceed twenty-five cents per ton.

24 B. Each person who is liable for the payment of such fee shall:

25 1. File, not later than the last day of January, April, July and
26 October of each year, a quarterly statement, setting forth the number of net
27 tons of commercial fertilizers distributed in this state during the preceding
28 calendar quarter. Upon filing the statement such person shall pay the
29 inspection fee at the rate stated in subsection A of this section. Inspection
30 fees which are due and owing and have not been remitted to the department
31 within thirty days following the date due shall have a penalty fee of ten per
32 cent or ten dollars whichever is larger added to the amount due when payment
33 is finally made. The assessment of this penalty fee shall not prevent the
34 director from taking other actions pursuant to this article.

35 2. Keep such records as may be necessary or required by the director
36 to indicate accurately the tonnage of commercial fertilizer distributed in
37 this state. The director shall have the right to examine such records to
38 verify statements of tonnage. Failure to make an accurate statement of
39 tonnage or to pay the inspection fee or comply as provided in this section
40 shall constitute cause for cancellation of any or all commercial fertilizer
41 licenses on file for the distributor.

42 C. Fees collected shall constitute a fund for the payment of the costs
43 of inspection, sampling, analysis and other expenses necessary for the
44 administration of this article AND MAY ALSO BE USED TO GRANT MONIES FOR

1 CONDUCTING RESEARCH AND EDUCATION PROJECTS TO ADVANCE THE ENVIRONMENTALLY
2 SAFE AND AGRONOMICALLY SOUND USE AND HANDLING OF FERTILIZER MATERIAL.

3 D. The director or any officer or employee of the state whose duties
4 require the compilation of reports based upon the information required by
5 this section who knowingly compiles or issues any false information or
6 report, or who knowingly, directly or indirectly, discloses information thus
7 obtained regarding the business of any person, except with the consent of
8 such person, or in the form of unidentifiable totals, or as authorized by
9 section 3-266, is guilty of a class 2 misdemeanor.

10 Sec. 2. Title 3, chapter 2, Arizona Revised Statutes, is amended by
11 adding article 7, to read:

12 ARTICLE 7. PEST CONTROL COMPACT

13 3-391. Adoption and text of compact

14 THE PEST CONTROL COMPACT IS ADOPTED AND ENACTED INTO LAW AS FOLLOWS:

15 ARTICLE I

16 FINDINGS

17 THE PARTY STATES FIND THAT:

18 (a) IN THE ABSENCE OF THE HIGHER DEGREE OF COOPERATION AMONG THEM
19 POSSIBLE UNDER THIS COMPACT, THE ANNUAL LOSS OF APPROXIMATELY ONE HUNDRED
20 THIRTY-SEVEN BILLION DOLLARS FROM THE DEPREDATIONS OF PESTS IS VIRTUALLY
21 CERTAIN TO CONTINUE, IF NOT TO INCREASE.

22 (b) BECAUSE OF THE VARYING CLIMATIC, GEOGRAPHIC AND ECONOMIC FACTORS,
23 EACH STATE MAY BE AFFECTED DIFFERENTLY BY PARTICULAR SPECIES OF PESTS, BUT
24 ALL STATES SHARE THE INABILITY TO PROTECT THEMSELVES FULLY AGAINST THOSE
25 PESTS WHICH PRESENT SERIOUS DANGERS TO THEM.

26 (c) THE MIGRATORY CHARACTER OF PEST INFESTATIONS MAKES IT NECESSARY
27 FOR STATES BOTH ADJACENT TO AND DISTANT FROM ONE ANOTHER, TO COMPLEMENT EACH
28 OTHER'S ACTIVITIES WHEN FACED WITH CONDITIONS OF INFESTATION AND
29 REINFESTATION.

30 (d) WHILE EVERY STATE IS SERIOUSLY AFFECTED BY A SUBSTANTIAL NUMBER OF
31 PESTS, AND EVERY STATE IS SUSCEPTIBLE OF INFESTATION BY MANY SPECIES OF PESTS
32 NOT NOW CAUSING DAMAGE TO ITS CROPS AND PLANT LIFE AND PRODUCTS, THE FACT
33 THAT RELATIVELY FEW SPECIES OF PESTS PRESENT EQUAL DANGER TO OR ARE OF
34 INTEREST TO ALL STATES MAKES THE ESTABLISHMENT AND OPERATION OF AN INSURANCE
35 FUND, FROM WHICH INDIVIDUAL STATES MAY OBTAIN FINANCIAL SUPPORT FOR PEST
36 CONTROL PROGRAMS OF BENEFIT TO THEM IN OTHER STATES AND TO WHICH THEY MAY
37 CONTRIBUTE IN ACCORDANCE WITH THEIR RELATIVE INTEREST, THE MOST EQUITABLE
38 MEANS OF FINANCING COOPERATIVE PEST ERADICATION AND CONTROL PROGRAMS.

39 ARTICLE II

40 DEFINITIONS

41 AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A
42 DIFFERENT CONSTRUCTION:

43 (a) "EXECUTIVE COMMITTEE" MEANS THE COMMITTEE ESTABLISHED PURSUANT TO
44 ARTICLE V(e) OF THIS COMPACT.

1 (b) "GOVERNING BOARD" MEANS THE ADMINISTRATORS OF THIS COMPACT
2 REPRESENTING ALL OF THE PARTY STATES WHEN SUCH ADMINISTRATORS ARE ACTING AS A
3 BODY IN PURSUANCE OF AUTHORITY VESTED IN THEM BY THIS COMPACT.

4 (c) "INSURANCE FUND" MEANS THE PEST CONTROL INSURANCE FUND ESTABLISHED
5 PURSUANT TO THIS COMPACT.

6 (d) "PEST" MEANS ANY INVERTEBRATE ANIMAL, PATHOGEN, PARASITIC PLANT OR
7 SIMILAR OR ALLIED ORGANISM WHICH CAN CAUSE DISEASE OR DAMAGE IN ANY CROPS,
8 TREES, SHRUBS, GRASSES OR OTHER PLANTS OF SUBSTANTIAL VALUE.

9 (e) "REQUESTING STATE" MEANS A STATE WHICH INVOKES THE PROCEDURES OF
10 THE COMPACT TO SECURE THE UNDERTAKING OR INTENSIFICATION OF MEASURES TO
11 CONTROL OR ERADICATE ONE OR MORE PESTS WITHIN ONE OR MORE OTHER STATES.

12 (f) "RESPONDING STATE" MEANS A STATE REQUESTED TO UNDERTAKE OR
13 INTENSIFY THE MEASURES REFERRED TO IN PARAGRAPH (e) OF THIS ARTICLE.

14 (g) "STATE" MEANS A STATE, TERRITORY OR POSSESSION OF THE UNITED
15 STATES, THE DISTRICT OF COLUMBIA AND THE COMMONWEALTH OF PUERTO RICO.

16 ARTICLE III

17 THE INSURANCE FUND

18 THERE IS HEREBY ESTABLISHED A PEST CONTROL INSURANCE FUND FOR THE
19 PURPOSE OF FINANCING OTHER THAN NORMAL PEST CONTROL OPERATIONS WHICH STATES
20 MAY BE CALLED UPON TO ENGAGE IN PURSUANT TO THIS COMPACT. THE INSURANCE FUND
21 SHALL CONTAIN MONIES APPROPRIATED TO IT BY THE PARTY STATES AND ANY DONATIONS
22 AND GRANTS ACCEPTED BY IT. ALL APPROPRIATIONS, EXCEPT AS CONDITIONED BY THE
23 RIGHTS AND OBLIGATIONS OF PARTY STATES EXPRESSLY SET FORTH IN THIS COMPACT,
24 SHALL BE UNCONDITIONAL AND MAY NOT BE RESTRICTED BY THE APPROPRIATING STATE
25 TO USE IN THE CONTROL OF ANY SPECIFIED PEST OR PESTS. DONATIONS AND GRANTS
26 MAY BE CONDITIONAL OR UNCONDITIONAL, PROVIDED THAT THE INSURANCE FUND SHALL
27 NOT ACCEPT ANY DONATION OR GRANT WHOSE TERMS ARE INCONSISTENT WITH ANY
28 PROVISION OF THIS COMPACT.

29 ARTICLE IV

30 THE INSURANCE FUND, INTERNAL OPERATIONS AND MANAGEMENT

31 (a) THE INSURANCE FUND SHALL BE ADMINISTERED BY A GOVERNING BOARD AND
32 EXECUTIVE COMMITTEE AS HEREINAFTER PROVIDED. THE ACTIONS OF THE GOVERNING
33 BOARD AND THE EXECUTIVE COMMITTEE PURSUANT TO THIS COMPACT SHALL BE DEEMED
34 THE ACTIONS OF THE INSURANCE FUND.

35 (b) THE MEMBERS OF THE GOVERNING BOARD SHALL BE ENTITLED TO ONE VOTE
36 ON SUCH BOARD. NO ACTION OF THE GOVERNING BOARD SHALL BE BINDING UNLESS TAKEN
37 AT A MEETING AT WHICH A MAJORITY OF THE TOTAL NUMBER OF VOTES ON THE
38 GOVERNING BOARD IS CAST IN FAVOR THEREOF. ACTION OF THE GOVERNING BOARD
39 SHALL BE ONLY AT A MEETING AT WHICH A MAJORITY OF THE MEMBERS ARE PRESENT.

40 (c) THE INSURANCE FUND SHALL HAVE A SEAL WHICH MAY BE EMPLOYED AS AN
41 OFFICIAL SYMBOL AND WHICH MAY BE AFFIXED TO DOCUMENTS AND OTHERWISE USED AS
42 THE GOVERNING BOARD MAY PROVIDE.

43 (d) THE GOVERNING BOARD SHALL ELECT ANNUALLY, FROM AMONG ITS MEMBERS,
44 A CHAIRMAN, A VICE-CHAIRMAN, A SECRETARY AND A TREASURER. THE CHAIRMAN MAY
45 NOT SUCCEED HIMSELF. THE GOVERNING BOARD MAY APPOINT AN EXECUTIVE DIRECTOR

1 AND FIX THE EXECUTIVE DIRECTOR'S DUTIES AND COMPENSATION, IF ANY. SUCH
2 EXECUTIVE DIRECTOR SHALL SERVE AT THE PLEASURE OF THE GOVERNING BOARD. THE
3 GOVERNING BOARD SHALL MAKE PROVISION FOR THE BONDING OF SUCH OF THE OFFICERS
4 AND EMPLOYEES OF THE INSURANCE FUND AS MAY BE APPROPRIATE.

5 (e) IRRESPECTIVE OF THE CIVIL SERVICE, PERSONNEL OR OTHER MERIT SYSTEM
6 LAWS OF ANY OF THE PARTY STATES, THE EXECUTIVE DIRECTOR, OR IF THERE IS NO
7 EXECUTIVE DIRECTOR, THE CHAIRMAN, IN ACCORDANCE WITH SUCH PROCEDURES AS THE
8 BYLAWS MAY PROVIDE, SHALL APPOINT, REMOVE OR DISCHARGE SUCH PERSONNEL AS MAY
9 BE NECESSARY FOR THE PERFORMANCE OF THE FUNCTIONS OF THE INSURANCE FUND AND
10 SHALL FIX THE DUTIES AND COMPENSATION OF SUCH PERSONNEL. THE GOVERNING BOARD
11 IN ITS BYLAWS SHALL PROVIDE FOR THE PERSONNEL POLICIES AND PROGRAMS OF THE
12 INSURANCE FUND.

13 (f) THE INSURANCE FUND MAY BORROW, ACCEPT OR CONTRACT FOR THE SERVICES
14 OF PERSONNEL FROM ANY STATE, THE UNITED STATES OR ANY OTHER GOVERNMENTAL
15 AGENCY, OR FROM ANY PERSON, FIRM, ASSOCIATION OR CORPORATION.

16 (g) THE INSURANCE FUND MAY ACCEPT FOR ANY OF ITS PURPOSES AND
17 FUNCTIONS UNDER THIS COMPACT ANY AND ALL DONATIONS AND GRANTS OF MONEY,
18 EQUIPMENT, SUPPLIES, MATERIALS AND SERVICES, CONDITIONAL OR OTHERWISE, FROM
19 ANY STATE, THE UNITED STATES OR ANY OTHER GOVERNMENTAL AGENCY, OR FROM ANY
20 PERSON, FIRM, ASSOCIATION OR CORPORATION, AND MAY RECEIVE, UTILIZE AND
21 DISPOSE OF THE SAME. ANY DONATION, GIFT OR GRANT ACCEPTED BY THE GOVERNING
22 BOARD PURSUANT TO THIS PARAGRAPH OR SERVICES BORROWED PURSUANT TO PARAGRAPH
23 (f) OF THIS ARTICLE SHALL BE REPORTED IN THE ANNUAL REPORT OF THE INSURANCE
24 FUND. SUCH REPORT SHALL INCLUDE THE NATURE, AMOUNT AND CONDITIONS, IF ANY,
25 OF THE DONATION, GIFT, GRANT OR SERVICES BORROWED AND THE IDENTITY OF THE
26 DONOR OR LENDER.

27 (h) THE GOVERNING BOARD SHALL ADOPT BYLAWS FOR THE CONDUCT OF THE
28 BUSINESS OF THE INSURANCE FUND AND SHALL HAVE THE POWER TO AMEND AND TO
29 RESCIND THESE BYLAWS. THE INSURANCE FUND SHALL PUBLISH ITS BYLAWS IN
30 CONVENIENT FORM AND SHALL FILE A COPY THEREOF AND A COPY OF ANY AMENDMENT
31 THERETO WITH THE APPROPRIATE AGENCY OR OFFICER IN EACH OF THE PARTY STATES.

32 (i) THE INSURANCE FUND ANNUALLY SHALL MAKE TO THE GOVERNOR AND
33 LEGISLATURE OF EACH PARTY STATE A REPORT COVERING ITS ACTIVITIES FOR THE
34 PRECEDING YEAR. THE INSURANCE FUND MAY MAKE SUCH ADDITIONAL REPORTS AS IT MAY
35 DEEM DESIRABLE.

36 (j) IN ADDITION TO THE POWERS AND DUTIES SPECIFICALLY AUTHORIZED AND
37 IMPOSED, THE INSURANCE FUND MAY DO SUCH OTHER THINGS AS ARE NECESSARY AND
38 INCIDENTAL TO THE CONDUCT OF ITS AFFAIRS PURSUANT TO THIS COMPACT.

39 ARTICLE V

40 COMPACT AND INSURANCE FUND ADMINISTRATION

41 (a) IN EACH PARTY STATE THERE SHALL BE A COMPACT ADMINISTRATOR, WHO
42 SHALL BE SELECTED AND SERVE IN SUCH MANNER AS THE LAWS OF THE ADMINISTRATOR'S
43 STATE MAY PROVIDE, AND WHO SHALL:

44 1. ASSIST IN THE COORDINATION OF ACTIVITIES PURSUANT TO THE COMPACT IN
45 THE ADMINISTRATOR'S STATE; AND

1 (b) WHENEVER A PARTY STATE IS THREATENED BY A PEST NOT PRESENT WITHIN
2 ITS BORDERS BUT PRESENT WITHIN ANOTHER PARTY STATE, OR WHENEVER A PARTY STATE
3 IS UNDERTAKING OR ENGAGED IN ACTIVITIES FOR THE CONTROL OR ERADICATION OF A
4 PEST OR PESTS, AND FINDS THAT SUCH ACTIVITIES ARE OR WOULD BE IMPRACTICABLE
5 OR SUBSTANTIALLY MORE DIFFICULT OF SUCCESS BY REASON OF FAILURE OF ANOTHER
6 PARTY STATE TO COPE WITH INFESTATION OR THREATENED INFESTATION, THAT STATE
7 MAY REQUEST THE GOVERNING BOARD TO AUTHORIZE EXPENDITURES FROM THE INSURANCE
8 FUND FOR ERADICATION OR CONTROL MEASURES TO BE TAKEN BY ONE OR MORE OF SUCH
9 OTHER PARTY STATES AT A LEVEL SUFFICIENT TO PREVENT, OR TO REDUCE TO THE
10 GREATEST PRACTICABLE EXTENT, INFESTATION OR REINFESTATION OF THE REQUESTING
11 STATE. UPON SUCH AUTHORIZATION THE RESPONDING STATE OR STATES SHALL TAKE OR
12 INCREASE SUCH ERADICATION OR CONTROL MEASURES AS MAY BE WARRANTED. A
13 RESPONDING STATE SHALL USE MONIES AVAILABLE FROM THE INSURANCE FUND
14 EXPEDITIOUSLY AND EFFICIENTLY TO ASSIST IN AFFORDING THE PROTECTION
15 REQUESTED.

16 (c) IN ORDER TO APPLY FOR EXPENDITURES FROM THE INSURANCE FUND, A
17 REQUESTING STATE SHALL SUBMIT THE FOLLOWING IN WRITING:

18 1. A DETAILED STATEMENT OF THE CIRCUMSTANCES WHICH OCCASION THE
19 REQUEST FOR THE INVOKING OF THE COMPACT.

20 2. EVIDENCE THAT THE PEST FOR WHICH ERADICATION OR CONTROL ASSISTANCE
21 IS REQUESTED CONSTITUTES A DANGER TO AN AGRICULTURAL OR FOREST CROP, PRODUCT,
22 TREE, SHRUB, GRASS OR OTHER PLANT HAVING A SUBSTANTIAL VALUE TO THE
23 REQUESTING STATE.

24 3. A STATEMENT OF THE EXTENT OF THE PRESENT AND PROJECTED PROGRAM OF
25 THE REQUESTING STATE AND ITS SUBDIVISIONS, INCLUDING FULL INFORMATION AS TO
26 THE LEGAL AUTHORITY FOR THE CONDUCT OF SUCH PROGRAM OR PROGRAMS AND THE
27 EXPENDITURES BEING MADE OR BUDGETED THEREFOR, IN CONNECTION WITH THE
28 ERADICATION, CONTROL OR PREVENTION OF INTRODUCTION OF THE PEST CONCERNED.

29 4. PROOF THAT THE EXPENDITURES BEING MADE OR BUDGETED AS DETAILED IN
30 ITEM 3 DO NOT CONSTITUTE A REDUCTION OF THE EFFORT FOR THE CONTROL OR
31 ERADICATION OF THE PEST CONCERNED OR, IF THERE IS A REDUCTION, THE REASONS
32 WHY THE LEVEL OF PROGRAM DETAILED IN ITEM 3 CONSTITUTES A NORMAL LEVEL OF
33 PEST CONTROL ACTIVITY.

34 5. A DECLARATION AS TO WHETHER, TO THE BEST OF ITS KNOWLEDGE AND
35 BELIEF, THE CONDITIONS WHICH IN ITS VIEW OCCASION THE INVOKING OF THE COMPACT
36 IN THE PARTICULAR INSTANCE CAN BE ABATED BY A PROGRAM UNDERTAKEN WITH THE AID
37 OF MONIES FROM THE INSURANCE FUND IN ONE YEAR OR LESS, OR WHETHER THE REQUEST
38 IS FOR AN INSTALLMENT IN A PROGRAM WHICH IS LIKELY TO CONTINUE FOR A LONGER
39 PERIOD OF TIME.

40 6. SUCH OTHER INFORMATION AS THE GOVERNING BOARD MAY REQUIRE
41 CONSISTENT WITH THIS COMPACT.

42 (d) THE GOVERNING BOARD OR EXECUTIVE COMMITTEE SHALL GIVE DUE NOTICE
43 OF ANY MEETING AT WHICH AN APPLICATION FOR ASSISTANCE FROM THE INSURANCE FUND
44 IS TO BE CONSIDERED. SUCH NOTICE SHALL BE GIVEN TO THE COMPACT ADMINISTRATOR
45 OF EACH PARTY STATE AND TO SUCH OTHER OFFICERS AND AGENCIES AS MAY BE

1 DESIGNATED BY THE LAWS OF THE PARTY STATES. THE REQUESTING STATE AND ANY
2 OTHER PARTY STATE SHALL BE ENTITLED TO BE REPRESENTED AND PRESENT EVIDENCE
3 AND ARGUMENT AT SUCH MEETING.

4 (e) UPON THE SUBMISSION AS REQUIRED BY PARAGRAPH (c) OF THIS ARTICLE
5 AND SUCH OTHER INFORMATION AS IT MAY HAVE OR ACQUIRE, AND UPON DETERMINING
6 THAT AN EXPENDITURE OF FUNDS IS WITHIN THE PURPOSES OF THIS COMPACT AND
7 JUSTIFIED THEREBY, THE GOVERNING BOARD OR EXECUTIVE COMMITTEE SHALL AUTHORIZE
8 SUPPORT OF THE PROGRAM. THE GOVERNING BOARD OR EXECUTIVE COMMITTEE MAY MEET
9 AT ANY TIME OR PLACE FOR THE PURPOSE OF RECEIVING AND CONSIDERING AN
10 APPLICATION. ANY AND ALL DETERMINATIONS OF THE GOVERNING BOARD OR EXECUTIVE
11 COMMITTEE, WITH RESPECT TO AN APPLICATION, TOGETHER WITH THE REASONS THEREFOR
12 SHALL BE RECORDED AND SUBSCRIBED IN SUCH MANNER AS TO SHOW AND PRESERVE THE
13 VOTES OF THE INDIVIDUAL MEMBERS THEREOF.

14 (f) A REQUESTING STATE WHICH IS DISSATISFIED WITH A DETERMINATION OF
15 THE EXECUTIVE COMMITTEE, UPON NOTICE IN WRITING GIVEN WITHIN TWENTY DAYS OF
16 THE DETERMINATION WITH WHICH IT IS DISSATISFIED, SHALL BE ENTITLED TO RECEIVE
17 A REVIEW THEREOF AT THE NEXT MEETING OF THE GOVERNING BOARD. DETERMINATIONS
18 OF THE EXECUTIVE COMMITTEE SHALL BE REVIEWABLE ONLY BY THE GOVERNING BOARD AT
19 ONE OF ITS REGULAR MEETINGS, OR AT A SPECIAL MEETING HELD IN SUCH MANNER AS
20 THE GOVERNING BOARD MAY AUTHORIZE.

21 (g) RESPONDING STATES REQUIRED TO UNDERTAKE OR INCREASE MEASURES
22 PURSUANT TO THIS COMPACT MAY RECEIVE MONIES FROM THE INSURANCE FUND, EITHER
23 AT THE TIME OR TIMES WHEN SUCH STATE INCURS EXPENDITURES ON ACCOUNT OF SUCH
24 MEASURES, OR AS REIMBURSEMENT FOR EXPENSES INCURRED AND CHARGEABLE TO THE
25 INSURANCE FUND. THE GOVERNING BOARD SHALL ADOPT AND, FROM TIME TO TIME, MAY
26 AMEND OR REVISE PROCEDURES FOR SUBMISSION OF CLAIMS UPON IT AND FOR PAYMENT
27 THEREOF.

28 (h) BEFORE AUTHORIZING THE EXPENDITURE OF MONIES FROM THE INSURANCE
29 FUND PURSUANT TO AN APPLICATION OF A REQUESTING STATE, THE INSURANCE FUND
30 SHALL ASCERTAIN THE EXTENT AND NATURE OF ANY TIMELY ASSISTANCE OR
31 PARTICIPATION WHICH MAY BE AVAILABLE FROM THE FEDERAL GOVERNMENT AND SHALL
32 REQUEST THE APPROPRIATE AGENCY OR AGENCIES OF THE FEDERAL GOVERNMENT FOR SUCH
33 ASSISTANCE AND PARTICIPATION.

34 (i) THE INSURANCE FUND MAY NEGOTIATE AND EXECUTE A MEMORANDUM OF
35 UNDERSTANDING OR OTHER APPROPRIATE INSTRUMENT DEFINING THE EXTENT AND DEGREE
36 OF ASSISTANCE OR PARTICIPATION BETWEEN AND AMONG THE INSURANCE FUND,
37 COOPERATING FEDERAL AGENCIES, STATES AND ANY OTHER ENTITIES CONCERNED.

38 ARTICLE VII

39 ADVISORY AND TECHNICAL COMMITTEES

40 THE GOVERNING BOARD MAY ESTABLISH ADVISORY AND TECHNICAL COMMITTEES
41 COMPOSED OF STATE, LOCAL AND FEDERAL OFFICIALS, AND PRIVATE PERSONS TO ADVISE
42 IT WITH RESPECT TO ANY ONE OR MORE OF ITS FUNCTIONS. ANY SUCH ADVISORY OR
43 TECHNICAL COMMITTEE, OR ANY MEMBER OR MEMBERS THEREOF MAY MEET WITH AND
44 PARTICIPATE IN ITS DELIBERATIONS UPON REQUEST OF THE GOVERNING BOARD OR
45 EXECUTIVE COMMITTEE. AN ADVISORY OR TECHNICAL COMMITTEE MAY FURNISH

1 INFORMATION AND RECOMMENDATIONS WITH RESPECT TO ANY APPLICATION FOR
2 ASSISTANCE FROM THE INSURANCE FUND BEING CONSIDERED BY SUCH BOARD OR
3 COMMITTEE, AND THE BOARD OR COMMITTEE MAY RECEIVE AND CONSIDER THE SAME,
4 PROVIDED THAT ANY PARTICIPANT IN A MEETING OF THE GOVERNING BOARD OR
5 EXECUTIVE COMMITTEE HELD PURSUANT TO ARTICLE VI(d) OF THIS COMPACT SHALL BE
6 ENTITLED TO KNOW THE SUBSTANCE OF ANY SUCH INFORMATION AND RECOMMENDATIONS,
7 AT THE TIME OF THE MEETING IF MADE PRIOR THERETO OR AS A PART THEREOF OR, IF
8 MADE THEREAFTER, NO LATER THAN THE TIME AT WHICH THE GOVERNING BOARD OR
9 EXECUTIVE COMMITTEE MAKES ITS DISPOSITION OF THE APPLICATION.

10 ARTICLE VIII

11 RELATIONS WITH NONPARTY JURISDICTIONS

12 (a) A PARTY STATE MAY MAKE APPLICATION FOR ASSISTANCE FROM THE
13 INSURANCE FUND IN RESPECT OF A PEST IN A NONPARTY STATE. SUCH APPLICATION
14 SHALL BE CONSIDERED AND DISPOSED OF BY THE GOVERNING BOARD OR EXECUTIVE
15 COMMITTEE IN THE SAME MANNER AS AN APPLICATION WITH RESPECT TO A PEST WITHIN
16 A PARTY STATE, EXCEPT AS PROVIDED IN THIS ARTICLE.

17 (b) AT OR IN CONNECTION WITH ANY MEETING OF THE GOVERNING BOARD OR
18 EXECUTIVE COMMITTEE HELD PURSUANT TO ARTICLE VI(d) OF THIS COMPACT, A
19 NONPARTY STATE SHALL BE ENTITLED TO APPEAR, PARTICIPATE AND RECEIVE
20 INFORMATION ONLY TO SUCH EXTENT AS THE GOVERNING BOARD OR EXECUTIVE COMMITTEE
21 MAY PROVIDE. A NONPARTY STATE SHALL NOT BE ENTITLED TO REVIEW OF ANY
22 DETERMINATION MADE BY THE EXECUTIVE COMMITTEE.

23 (c) THE GOVERNING BOARD OR EXECUTIVE COMMITTEE SHALL AUTHORIZE
24 EXPENDITURES FROM THE INSURANCE FUND TO BE MADE IN A NONPARTY STATE ONLY
25 AFTER DETERMINING THAT THE CONDITIONS IN SUCH STATE AND THE VALUE OF SUCH
26 EXPENDITURES TO THE PARTY STATES AS A WHOLE JUSTIFY THEM. THE GOVERNING
27 BOARD OR EXECUTIVE COMMITTEE MAY SET ANY CONDITIONS WHICH IT DEEMS
28 APPROPRIATE WITH RESPECT TO THE EXPENDITURE OF MONIES FROM THE INSURANCE FUND
29 IN A NONPARTY STATE AND MAY ENTER INTO SUCH AGREEMENT OR AGREEMENTS WITH
30 NONPARTY STATES AND OTHER JURISDICTIONS OR ENTITIES AS IT MAY DEEM NECESSARY
31 OR APPROPRIATE TO PROTECT THE INTERESTS OF THE INSURANCE FUND WITH RESPECT TO
32 EXPENDITURES AND ACTIVITIES OUTSIDE OF PARTY STATES.

33 ARTICLE IX

34 FINANCE

35 (a) THE INSURANCE FUND SHALL SUBMIT TO THE EXECUTIVE HEAD OR
36 DESIGNATED OFFICER OR OFFICERS OF EACH PARTY STATE A BUDGET FOR THE INSURANCE
37 FUND FOR SUCH PERIOD AS MAY BE REQUIRED BY THE LAWS OF THAT PARTY STATE FOR A
38 PRESENTATION TO THE LEGISLATURE THEREOF.

39 (b) EACH OF THE BUDGETS SHALL CONTAIN SPECIFIC RECOMMENDATIONS OF THE
40 AMOUNT OR AMOUNTS TO BE APPROPRIATED BY EACH OF THE PARTY STATES. THE
41 REQUEST FOR APPROPRIATIONS SHALL BE APPORTIONED AMONG THE PARTY STATES AS
42 FOLLOWS: ONE-TENTH OF THE TOTAL BUDGET IN EQUAL SHARES AND THE REMAINDER IN
43 PROPORTION TO THE VALUE OF AGRICULTURAL AND FOREST CROPS AND PRODUCTS,
44 EXCLUDING ANIMALS AND ANIMAL PRODUCTS, PRODUCED IN EACH PARTY STATE. IN
45 DETERMINING THE VALUE OF SUCH CROPS AND PRODUCTS THE INSURANCE FUND MAY

1 EMPLOY SUCH SOURCE OR SOURCES OF INFORMATION AS IN ITS JUDGMENT PRESENT THE
2 MOST EQUITABLE AND ACCURATE COMPARISONS AMONG THE PARTY STATES. EACH OF THE
3 BUDGETS AND REQUESTS FOR APPROPRIATIONS SHALL INDICATE THE SOURCE OR SOURCES
4 USED IN OBTAINING INFORMATION CONCERNING VALUE OF PRODUCTS.

5 (c) THE FINANCIAL ASSETS OF THE INSURANCE FUND SHALL BE MAINTAINED IN
6 TWO ACCOUNTS TO BE DESIGNATED RESPECTIVELY AS THE "OPERATING ACCOUNT" AND THE
7 "CLAIMS ACCOUNT." THE OPERATING ACCOUNT SHALL CONSIST ONLY OF THOSE ASSETS
8 NECESSARY FOR THE ADMINISTRATION OF THE INSURANCE FUND DURING THE NEXT
9 ENSUING TWO-YEAR PERIOD. THE CLAIMS ACCOUNT SHALL CONTAIN ALL MONIES NOT
10 INCLUDED IN THE OPERATING ACCOUNT AND SHALL NOT EXCEED THE AMOUNT REASONABLY
11 ESTIMATED TO BE SUFFICIENT TO PAY ALL LEGITIMATE CLAIMS ON THE INSURANCE FUND
12 FOR A PERIOD OF THREE YEARS. AT ANY TIME WHEN THE CLAIMS ACCOUNT HAS REACHED
13 ITS MAXIMUM LIMIT OR WOULD REACH ITS MAXIMUM LIMIT BY THE ADDITION OF MONIES
14 REQUESTED FOR APPROPRIATION BY THE PARTY STATES, THE GOVERNING BOARD SHALL
15 REDUCE ITS BUDGET REQUESTS ON A PRO RATA BASIS IN SUCH MANNER AS TO KEEP THE
16 CLAIMS ACCOUNT WITHIN SUCH MAXIMUM LIMIT. ANY MONIES IN THE CLAIMS ACCOUNT
17 BY VIRTUE OF CONDITIONAL DONATIONS, GRANTS OR GIFTS SHALL BE INCLUDED IN
18 CALCULATIONS MADE PURSUANT TO THIS PARAGRAPH ONLY TO THE EXTENT THAT SUCH
19 MONIES ARE AVAILABLE TO MEET DEMANDS ARISING OUT OF THE CLAIMS.

20 (d) THE INSURANCE FUND SHALL NOT PLEDGE THE CREDIT OF ANY PARTY STATE.
21 THE INSURANCE FUND MAY MEET ANY OF ITS OBLIGATIONS IN WHOLE OR IN PART WITH
22 MONIES AVAILABLE TO IT UNDER ARTICLE IV(g) OF THIS COMPACT, PROVIDED THAT THE
23 GOVERNING BOARD TAKE SPECIFIC ACTION SETTING ASIDE SUCH MONIES PRIOR TO
24 INCURRING ANY OBLIGATION TO BE MET IN WHOLE OR IN PART IN SUCH MANNER.
25 EXCEPT WHERE THE INSURANCE FUND MAKES USE OF MONIES AVAILABLE TO IT UNDER
26 ARTICLE IV(g) HEREOF, THE INSURANCE FUND SHALL NOT INCUR ANY OBLIGATION PRIOR
27 TO THE ALLOTMENT OF MONIES BY THE PARTY STATES ADEQUATE TO MEET THE SAME.

28 (e) THE INSURANCE FUND SHALL KEEP ACCURATE ACCOUNTS OF ALL RECEIPTS
29 AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INSURANCE FUND
30 SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES ESTABLISHED UNDER ITS
31 BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF FUNDS HANDLED BY THE
32 INSURANCE FUND SHALL BE AUDITED YEARLY BY A CERTIFIED OR LICENSED PUBLIC
33 ACCOUNTANT, AND A REPORT OF THE AUDIT SHALL BE INCLUDED IN AND BECOME PART OF
34 THE ANNUAL REPORT OF THE INSURANCE FUND.

35 (f) THE ACCOUNTS OF THE INSURANCE FUND SHALL BE OPEN AT ANY REASONABLE
36 TIME FOR INSPECTION BY DULY AUTHORIZED OFFICERS OF THE PARTY STATES AND BY
37 ANY PERSONS AUTHORIZED BY THE INSURANCE FUND.

38 ARTICLE X

39 ENTRY INTO FORCE AND WITHDRAWAL

40 (a) THIS COMPACT SHALL ENTER INTO FORCE WHEN ENACTED INTO LAW BY ANY
41 FIVE OR MORE STATES. THEREAFTER, THIS COMPACT SHALL BECOME EFFECTIVE AS TO
42 ANY OTHER STATE UPON ITS ENACTMENT THEREOF.

1 (b) ANY PARTY STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A
2 STATUTE REPEALING THE SAME, BUT ANY SUCH WITHDRAWAL SHALL NOT TAKE EFFECT
3 UNTIL TWO YEARS AFTER THE EXECUTIVE HEAD OF THE WITHDRAWING STATE HAS GIVEN
4 NOTICE IN WRITING OF THE WITHDRAWAL TO THE EXECUTIVE HEADS OF ALL OTHER PARTY
5 STATES. A WITHDRAWAL SHALL NOT AFFECT ANY LIABILITY ALREADY INCURRED BY OR
6 CHARGEABLE TO A PARTY STATE PRIOR TO THE TIME OF SUCH WITHDRAWAL.

7 ARTICLE XI

8 CONSTRUCTION AND SEVERABILITY

9 THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE THE
10 PURPOSES THEREOF. THE PROVISIONS OF THIS COMPACT SHALL BE SEVERABLE AND IF
11 ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS DECLARED TO BE
12 CONTRARY TO THE CONSTITUTION OF ANY STATE OR OF THE UNITED STATES OR THE
13 APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS
14 HELD INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE
15 APPLICABILITY THEREOF TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE SHALL
16 NOT BE AFFECTED THEREBY. IF THIS COMPACT SHALL BE HELD CONTRARY TO THE
17 CONSTITUTION OF ANY STATE PARTICIPATING HEREIN THE COMPACT SHALL REMAIN IN
18 FULL FORCE AND EFFECT AS TO THE REMAINING PARTY STATES AND IN FULL FORCE AND
19 EFFECT AS TO THE STATE AFFECTED AS TO ALL SEVERABLE MATTERS.

20 3-391.01. Administration

21 A. CONSISTENT WITH LAW AND WITHIN AVAILABLE APPROPRIATIONS, THE
22 DEPARTMENTS, AGENCIES AND OFFICERS OF THIS STATE MAY COOPERATE WITH THE
23 INSURANCE FUND ESTABLISHED BY THE PEST CONTROL COMPACT ADOPTED PURSUANT TO
24 SECTION 3-391.

25 B. PURSUANT TO ARTICLE IV(h) OF THE COMPACT ADOPTED PURSUANT TO
26 SECTION 3-391, COPIES OF BYLAWS AND AMENDMENTS TO THE BYLAWS SHALL BE FILED
27 WITH THE DIRECTOR.

28 C. THE COMPACT ADMINISTRATOR FOR THIS STATE SHALL BE THE
29 DIRECTOR. THE DUTIES OF THE COMPACT ADMINISTRATOR ARE CONSIDERED TO BE A
30 REGULAR PART OF THE DUTIES OF THE DIRECTOR'S OFFICE. THE DIRECTOR'S EXPENSES
31 AS COMPACT ADMINISTRATOR ARE CHARGEABLE TO THE DEPARTMENT.

32 D. WITHIN THE MEANING OF ARTICLE VI(b) OR VIII(a) OF THE COMPACT
33 ADOPTED PURSUANT TO SECTION 3-391, A REQUEST OR APPLICATION FOR ASSISTANCE
34 FROM THE INSURANCE FUND MAY BE MADE BY THE DIRECTOR, AFTER NOTIFYING THE
35 GOVERNOR, IF IN THE DIRECTOR'S JUDGMENT THE CONDITIONS QUALIFYING THIS STATE
36 FOR SUCH ASSISTANCE EXIST AND IT WOULD BE IN THE BEST INTEREST OF THIS STATE
37 TO MAKE SUCH A REQUEST.

38 E. THE DIRECTOR SHALL NOTIFY THE STATE TREASURER TO CREDIT TO THE
39 DEPARTMENT'S ACCOUNT IN THE STATE TREASURY THE AMOUNT OR AMOUNTS OF ANY
40 PAYMENTS MADE TO THIS STATE TO DEFRAY OR REIMBURSE THE COST OF ALL OR PART OF
41 A CONTROL OR ERADICATION PROGRAM UNDERTAKEN OR INTENSIFIED PURSUANT TO THE
42 COMPACT ADOPTED PURSUANT TO SECTION 3-391.

43 F. AS USED IN THE COMPACT ADOPTED PURSUANT TO SECTION 3-391, WITH
44 REFERENCE TO THIS STATE, "EXECUTIVE HEAD" MEANS THE GOVERNOR.

1 Sec. 3. Section 3-1206, Arizona Revised Statutes, is amended to read:
2 3-1206. Suspension, revocation or termination of licenses and
3 agreements; hearing

4 A. Any license issued by the division may be suspended or revoked for
5 violation or noncompliance with:

- 6 1. Any provision of this title.
- 7 2. Any rule issued pursuant to this title.
- 8 3. Any condition of the license.

9 B. A license or agreement may be suspended, revoked or otherwise
10 terminated or a civil penalty or other administrative sanction may be imposed
11 only after **AN OPPORTUNITY FOR** a hearing conducted pursuant to, **OR AS**
12 **OTHERWISE ALLOWED BY**, title 41, chapter 6, article 10.

13 Sec. 4. Section 3-1372, Arizona Revised Statutes, is amended to read:
14 3-1372. Keeping livestock following seizure; expenses; use of
15 livestock in criminal prosecution; sale of forfeited
16 livestock; nonliability of state

17 A. ~~When~~ A livestock officer **WHO** has seized livestock, as provided by
18 this article, ~~he~~ shall safely keep and care for it ~~for a period of fifteen~~
19 ~~days~~ **WHILE IT IS UNDER THE DEPARTMENT'S CUSTODY AND CONTROL**, during which
20 **TIME** any person may inspect the livestock.

21 B. The expense of seizing, feeding and caring for livestock ~~for the~~
22 ~~initial fifteen day period~~ shall be ~~a charge against the department and~~ paid
23 from any fund available to the division for that purpose. **THE DIVISION SHALL**
24 **RECOVER ITS EXPENSES AS PROVIDED BY THIS ARTICLE.**

25 C. At any time ~~prior to the expiration of fifteen days after the~~
26 ~~seizure of~~ **BEFORE THE HEARING ON THE OWNERSHIP OF THE** livestock, the county
27 attorney of the county in which the livestock is seized may take charge of
28 and keep the livestock at the expense of the state when ~~he deems it to be~~ **THE**
29 **LIVESTOCK IS** of evidentiary value in any criminal prosecution arising from
30 the seizure.

31 D. **IF LIVESTOCK IS FORFEITED TO THIS STATE AND ORDERED TO BE SOLD, AS**
32 **PROVIDED BY THIS ARTICLE**, the department shall cause notice to be posted in
33 three public places in the precinct where the livestock ~~are~~ **IS** held stating
34 that the livestock will be sold at public auction for cash to the highest
35 bidder. The notice shall be posted for ~~ten days after the livestock have~~
36 ~~been seized and~~ at least five days before the sale. The notice shall state
37 the location where the livestock will be sold. Proceeds from the sale shall
38 be transmitted to the department to be deposited in the livestock custody
39 fund established by section 3-1377, and upon final determination of all
40 actions arising from the seizure of the livestock the department shall pay
41 the proceeds, less the hauling charges and expense of feeding and caring for
42 such livestock, to the persons entitled thereto under the judgment of the
43 court.

44 E. The director may contract with any person to handle, feed and care
45 for livestock taken into custody under this section. This state is not

1 liable for the injury or death of any person or livestock or damage to
2 property due to performance of the contract.

3 Sec. 5. Section 3-1373, Arizona Revised Statutes, is amended to read:

4 3-1373. Report of seizure; filing and docketing

5 A. Livestock officers shall forthwith report any seizure of livestock
6 pursuant to ~~the provisions of~~ this article to the county attorney and to the
7 clerk of the superior court in the county where the stock was seized or to an
8 available justice of the peace of the county where the stock was seized whose
9 office is nearest the place of seizure.

10 B. The report ~~of the livestock officer relating to the seizure of~~
11 ~~livestock~~ shall:

12 1. Give a general description of the livestock seized and the brands,
13 if any, together with the place of and reason for the seizure and the
14 probable value of the livestock. ~~and~~

15 2. Request that the owner and claimant be ~~cited~~ SUMMONED to appear and
16 prove ownership.

17 C. The clerk of the court or the justice of the peace shall ~~file~~:

18 1. CONSIDER the report TO BE A PETITION. ~~and~~

19 2. FILE AND docket it as ~~an~~ A CIVIL action by the state in its name
20 and against the reputed owners of the livestock, if known, and if not known,
21 against the unknown owners.

22 Sec. 6. Section 3-1374, Arizona Revised Statutes, is amended to read:

23 3-1374. Setting time for hearing on ownership of seized stock;
24 issuance of summons

25 A. The clerk of the court or justice of the peace, as the case may be,
26 after filing and docketing the report of seizure shall enter a brief
27 statement of the seizure on the docket and set a time for hearing evidence of
28 the ownership of the livestock, which shall be not less than ten and not more
29 than twenty CALENDAR days after the date the report is filed.

30 B. The clerk or justice of the peace shall issue a ~~citation~~ SUMMONS
31 directing all persons claiming all or part of the livestock to appear at the
32 time set and offer proof of ownership.

33 C. The ~~citation~~ SUMMONS:

34 1. Shall be addressed to those whom it may concern. ~~It~~

35 2. Shall set forth substantially the facts given in the report. ~~The~~
36 ~~citation~~

37 3. Shall be delivered to and served by the livestock officer who made
38 the seizure or by a constable or sheriff of the county. ~~The citation~~

39 4. Is returnable and shall be heard as in civil actions.

40 Sec. 7. Section 3-1375, Arizona Revised Statutes, is amended to read:

41 3-1375. Service on owner of seized livestock; forfeiture
42 proceedings on failure to respond

43 A. If the livestock seized is branded and marked with an adopted and
44 recorded brand or mark, the ~~citation~~ SUMMONS shall be served upon the person
45 who owns the brand or mark as shown by the division's records if such person

1 can be found in the county. The service shall be at least one day before the
2 day set for the hearing. A copy of the ~~citation~~ SUMMONS shall be posted in
3 at least three public and conspicuous places in the county at least eight
4 days before the day set for the hearing.

5 B. At the time set for hearing, the livestock officer, or other
6 officer, shall make return of the ~~citation~~ SUMMONS to the court. If it
7 appears that due service of the ~~citation~~ SUMMONS has been made, as required
8 by this section, and no one appears to claim all or part of the livestock so
9 seized within the time provided, the court shall adjudge the livestock
10 forfeited to the state and shall order it sold as provided in this article.

11 Sec. 8. Section 3-1376, Arizona Revised Statutes, is amended to read:
12 3-1376. Hearing on claim; release or sale of seized livestock;
13 appeals

14 A. If any person appears at the time fixed for the hearing and claims
15 all or part of the livestock, the claim shall be stated and the judge of the
16 court or justice of the peace shall enter upon the minutes of the court the
17 fact that the claim is made and the hearing shall proceed as in civil
18 actions.

19 B. Livestock determined by the court to be owned by any person shall
20 be released from seizure, upon payment TO THE DEPARTMENT of the hauling
21 charges and expense of feeding and caring for such livestock. ~~, and~~
22 Livestock not so adjudged, or the ownership of which is doubtful, shall be
23 forfeited to the state and ordered sold by the ~~livestock officer~~ DEPARTMENT
24 at public auction ~~at a convenient public auction~~, upon a fixed date after
25 notice, as sales of personal property under execution.

26 C. An appeal from the judgment may be taken as in civil actions and
27 shall be governed by the same rules that apply to appeals from justice courts
28 or from the superior court, as the case may be.

29 Sec. 9. Section 3-1377, Arizona Revised Statutes, is amended to read:
30 3-1377. Sale of seized stock; disposition of proceeds;
31 livestock custody fund

32 A. Livestock officers shall execute ~~the~~ AN order of sale made pursuant
33 to ~~section 3-1376~~ THIS ARTICLE and deliver a bill of sale to the purchaser,
34 describing the livestock sold and the amount it sold for, and forward to the
35 division a duplicate of the bill of sale. Upon delivery of the bill of sale,
36 title to the livestock shall pass to the purchaser.

37 B. ~~Livestock officers shall~~ Immediately after the sale is made, or
38 after release to the owner who pays the hauling charges and expenses of feed
39 and care of such livestock, LIVESTOCK OFFICERS SHALL remit the proceeds
40 ~~thereof~~ OF THE SALE to the department, together with an itemized statement of
41 the expense of the seizure and sale, which shall be paid as other claims.

42 C. The amount received by the department pursuant to this section and
43 sections 3-1294, 3-1372, 3-1402, 3-1403 and 3-1721 shall be deposited,
44 pursuant to sections 35-146 and 35-147, in a special fund designated the
45 livestock custody fund. On notice from the department, the state treasurer

1 shall invest and divest monies in the fund as provided by section 35-313, and
2 monies earned from investment shall be credited to the fund. The fund is
3 exempt from the provisions of section 35-190 relating to lapsing of
4 appropriations.

5 D. The livestock custody fund is subject to legislative appropriation
6 for use by the department for the enforcement of any of the provisions of
7 this title.

8 Sec. 10. Section 3-1402, Arizona Revised Statutes, is amended to read:

9 3-1402. Holding and sale of stray animals; repossession before
10 and after sale; nonliability of state

11 A. ~~When~~ A livestock officer or inspector WHO finds a stray animal ~~he~~
12 shall attempt to locate the owner and, if located, notify ~~him~~ THE OWNER where
13 the animal may be found. If the owner does not take immediate possession of
14 the animal, or if the owner or claimant ~~thereof~~ is unknown or cannot be
15 located, the livestock officer or inspector shall hold the stray animal for
16 at least ~~fourteen~~ SEVEN days and EITHER:

17 1. Sell it at public auction to the highest bidder for cash, after
18 giving at least five days' notice of the sale.

19 2. IF THE ANIMAL'S CONDITION MAKES ITS SALE IMPRACTICAL, DISPOSE OF
20 THE ANIMAL IN THE MOST HUMANE MANNER POSSIBLE.

21 B. The department shall cause notice to be posted in three public
22 places in the justice precinct where the stray animal is held stating:

23 1. That the stray animal will be sold at public auction for cash to
24 the highest bidder. ~~The notice shall state~~

25 2. The location where the stray animal will be held and the location
26 where the animal will be sold.

27 C. The owner of a stray animal may take possession of the animal at
28 any time prior to sale by proving ownership and paying the inspection fee and
29 all expenses incurred in keeping and caring for the animal.

30 D. If the owner of the stray does not claim the animal before the day
31 of sale, or if the owner is unknown or cannot be located, the livestock
32 officer or inspector shall sell the animal pursuant to the notice, and shall
33 deliver an invoice of sale or a livestock inspection certificate to the
34 purchaser. The owner of an animal sold may take possession of it at any time
35 before the purchaser ~~thereof~~ sells it by paying to the purchaser the purchase
36 price paid at the sale, together with the expense of keeping and caring for
37 the animal from the date of sale to the time the owner takes possession of
38 the animal.

39 E. Livestock that ~~are~~ IS received at auction markets without proper
40 documentation but with no evidence of criminal intent by the shipper may be
41 sold, but the director shall impound the proceeds of the sale in the
42 livestock custody fund established by section 3-1377. On presentation of
43 proper documentation of ownership, the director shall pay the proceeds, less
44 any charges incurred, to the person who is entitled to the proceeds.

1 F. The director may contract with any person to handle, feed and care
2 for stray animals taken into custody under this section. This state is not
3 liable for the injury or death of any person or stray animal or damage to
4 property due to performance of the contract.

5 Sec. 11. Section 41-2706, Arizona Revised Statutes, is amended to
6 read:

7 41-2706. Applicability of chapter

8 A. This chapter applies to the solicitation of grants initiated after
9 August 6, 1999.

10 B. This chapter does not apply to:

11 1. Any grant program that was exempt from chapter 23, article 3 of
12 this title and for which administrative rules establishing grant solicitation
13 procedures were adopted pursuant to chapter 6 of this title before August 6,
14 1999.

15 2. The Arizona board of regents and schools, colleges, institutions
16 and universities under its control if the Arizona board of regents adopts
17 rules or policies governing the award of grants that encourage as much
18 competition as practicable.

19 3. Grants made by the cotton research and protection council for
20 research programs related to cotton production or protection.

21 4. Grants made by the Arizona iceberg lettuce research council for
22 research programs under section 3-526.02, subsection C, paragraph 3 or 5.

23 5. Grants made by the Arizona citrus research council for research
24 programs under section 3-468.02, subsection C, paragraph 3 or 5.

25 6. Grants made by the Arizona grain research and promotion council for
26 research projects and programs under section 3-584, subsection C,
27 paragraph 5.

28 7. GRANTS MADE UNDER SECTION 3-268, SUBSECTION C.