

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

# HOUSE BILL 2312

## AN ACT

AMENDING SECTIONS 3-108, 3-214.01, 3-218, 3-233, 3-234, 3-266, 3-269, 3-344, 3-345, 3-350, 3-354, 3-415, 3-417, 3-447, 3-448, 3-449, 3-449.04, 3-450, 3-466, 3-468.04, 3-468.06, 3-484, 3-489, 3-491, 3-492, 3-498, 3-521, 3-526.04, 3-526.06, 3-584, 3-590, 3-592, 3-710, 3-716, 3-717, 3-911, 3-913, 3-1294, 3-1350, 3-1372, 3-1377, 3-1402, 3-1403, 3-1721, 3-2602, 3-2604, 3-2607, 3-2913 AND 5-113, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL TRUST FUNDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 3-108, Arizona Revised Statutes, is amended to  
3 read:

4 3-108. Administrative support fund; use; exemption

5 A. A department of agriculture administrative support fund is  
6 established. All monies collected pursuant to any interagency agreement with  
7 the department pursuant to ~~section 3-554, subsection A,~~ section 3-588,  
8 subsection A and section 3-1084, subsection A shall be deposited, pursuant to  
9 sections 35-146 and 35-147, in the fund.

10 B. All monies collected pursuant to any interagency agreement with the  
11 department in accordance with section 3-468.03, subsection A and section  
12 3-526.03, subsection A shall be deposited in the ADMINISTRATIVE SUPPORT fund  
13 or deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund  
14 established by section 3-447 pursuant to the terms of the interagency  
15 agreement. Deposits IN THE ADMINISTRATIVE SUPPORT FUND shall be made  
16 pursuant to sections 35-146 and 35-147.

17 C. Monies in the fund are continuously appropriated and exempt from  
18 the provisions of section 35-190 relating to lapsing of appropriations.

19 Sec. 2. Section 3-214.01, Arizona Revised Statutes, is amended to  
20 read:

21 3-214.01. Dangerous plants, pests and diseases trust fund

22 A. A dangerous plants, pests and diseases TRUST fund is established  
23 FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE  
24 AGRICULTURAL PROGRAM ESTABLISHED BY THIS ARTICLE. All monies collected under  
25 the provisions of this article except civil penalties assessed pursuant to  
26 section 3-204, 3-205, 3-205.02 or 3-215.01 shall be deposited, ~~pursuant to~~  
27 ~~sections 35-146 and 35-147,~~ in the dangerous plants, pests and diseases TRUST  
28 fund.

29 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE  
30 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
31 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
32 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
33 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
34 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
35 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~  
36 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be  
37 credited to the TRUST fund.

38 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
39 ESTABLISHED BY THIS ARTICLE. All monies in the dangerous plants, pests and  
40 diseases TRUST fund are to be used by the department ~~subject to legislative~~  
41 ~~appropriation~~ EXCLUSIVELY to carry out the provisions of this article,  
42 including salaries, fees and office, administrative, bonding and travel  
43 expenses incurred.

1 D. The unexpended and unencumbered balance of monies, if any,  
2 remaining in the dangerous plants, pests and diseases TRUST fund at the end  
3 of each fiscal year shall not revert to the state general fund.

4 Sec. 3. Section 3-218, Arizona Revised Statutes, is amended to read:

5 3-218. Citrus budwood certification; fee

6 A. The director may direct a state citrus budwood certification  
7 program. Under the program, inspectors may:

8 1. Monitor the fumigation of blocks of citrus trees.

9 2. Monitor the transplanting of seedlings from the seed bed.

10 3. Monitor the cutting of budwood from mother blocks or other  
11 certified blocks within a twenty-four hour period.

12 4. Tag certified citrus trees with certified tags.

13 5. Map blocks in a certified nursery.

14 6. Audit records that are kept by the nursery and by private  
15 inspection associations.

16 B. The director may assess a fee of not more than ten cents per  
17 budwood to cover the costs of implementing the citrus budwood certification  
18 program. The director shall establish the amount of the fee by rule pursuant  
19 to a cooperative agreement among the department, private inspection  
20 associations and the university of Arizona, Yuma Mesa agricultural center.  
21 The director shall deposit, ~~pursuant to sections 35-146 and 35-147,~~ revenues  
22 collected from the fee in the dangerous plants, pests and diseases TRUST fund  
23 established by section 3-214.01.

24 Sec. 4. Section 3-233, Arizona Revised Statutes, is amended to read:

25 3-233. Powers and duties; fees; penalty

26 A. For the purpose of carrying out this article, the director may:

27 1. In order to have access to seeds and the records pertaining to  
28 seeds subject to this article and the rules adopted under this article, enter  
29 upon:

30 (a) Any established plant, warehouse or place of business during  
31 customary business hours.

32 (b) Any truck or other conveyance operated on land, on water or in the  
33 air on probable cause or reasonable suspicion to believe that a violation of  
34 this article has occurred.

35 2. Issue and enforce a written cease and desist order to the owner or  
36 custodian of any lot of agricultural, vegetable or ornamental plant seed  
37 ~~which~~ THAT the director finds is in violation of this article, as provided in  
38 section 3-238, and any lot or lots of seed sold, or transported for sale,  
39 ~~which~~ THAT do not meet all requirements of the plant variety protection act  
40 (P.L. 91-577; 84 Stat. 1542; 7 United States Code sections 2321 through  
41 2582).

42 3. Provide through the state agricultural laboratory for seed testing  
43 facilities, employ qualified persons and incur expenses necessary to comply  
44 with this article.

1           4. Through the state agricultural laboratory:  
2           (a) Provide for making purity, germination, noxious weed, tetrazolium  
3 and pathology tests of seeds for farmers and dealers on request pursuant to  
4 rules prescribed by the director governing such testing.  
5           (b) Collect charges for the tests as prescribed by the director.  
6           5. Cooperate with the United States department of agriculture and  
7 other agencies in seed law enforcement.  
8           6. Revoke, suspend, restrict, deny or choose not to renew a license  
9 issued under this article or fix periods and terms of probation for a license  
10 holder after a hearing at which the license holder is found by a  
11 preponderance of the evidence to have violated this article or any of the  
12 rules adopted under this article.  
13           7. Establish by rule fees that are sufficient to cover the costs of  
14 interstate and international exportation inspection activities under section  
15 3-232, subsection A, paragraph 1, but annually not more than one dollar fifty  
16 cents per acre. Monies received under this paragraph shall be deposited in  
17 the seed law TRUST fund pursuant to section 3-234.  
18           B. For the purposes of this article, the director, after an  
19 opportunity for a hearing, shall establish and collect the following fees:  
20           1. For a seed dealer's license, not more than fifty dollars per year.  
21           2. For a labeler's license, not more than five hundred dollars per  
22 year.  
23           C. The director shall assess a license holder who does not submit the  
24 annual license renewal fees to the department by July 1 a penalty of ten per  
25 cent of the amount of the license fee per month for not more than three  
26 months. Penalties collected under this subsection shall be deposited in the  
27 seed law TRUST fund pursuant to section 3-234.  
28           Sec. 5. Section 3-234, Arizona Revised Statutes, is amended to read:  
29           3-234. Seed law trust fund  
30           A. A seed law TRUST fund is established FOR THE EXCLUSIVE PURPOSE OF  
31 IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM ESTABLISHED  
32 BY THIS ARTICLE. All monies collected pursuant to section 3-233 shall be  
33 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the seed law TRUST  
34 fund.  
35           B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE  
36 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
37 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
38 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
39 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
40 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
41 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~  
42 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be  
43 credited to the TRUST fund. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND  
44 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE  
45 STATE GENERAL FUND.

1 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
2 ESTABLISHED BY THIS ARTICLE. All monies in the seed law TRUST fund are  
3 ~~subject to legislative appropriation to the department~~ to be spent as  
4 directed by the director to carry out the provisions of this article.

5 Sec. 6. Section 3-266, Arizona Revised Statutes, is amended to read:  
6 3-266. Annual reports and publications: membership in  
7 professional organizations

8 A. The director may provide for publishing at such times and in such  
9 form as ~~he~~ THE DIRECTOR deems proper information concerning the sale of  
10 fertilizer materials together with such data on their production and use as  
11 ~~he~~ THE DIRECTOR considers advisable, and a report of the monies received and  
12 expended, but the information concerning production and use of fertilizer  
13 materials shall not disclose the operations of any one person. Reports of  
14 chemists' findings based on official samples of each brand of fertilizer  
15 material sampled and analyzed during the year as compared to the guaranteed  
16 chemical analysis for each such fertilizer material shall be published  
17 annually as promptly as possible after January 1 each year.

18 B. The director may authorize employees of the division to join and  
19 subscribe to any state, district, regional or national organizations or  
20 publications relating to sale and distribution or control of sale and  
21 distribution of fertilizer materials, and attend state, district, regional  
22 and national meetings relating to sale and distribution or control of sale  
23 and distribution of fertilizer materials.

24 C. Expenses authorized by this section shall be paid from and limited  
25 by the fertilizer materials TRUST fund.

26 Sec. 7. Section 3-269, Arizona Revised Statutes, is amended to read:  
27 3-269. Fertilizer materials trust fund

28 A. The fertilizer materials TRUST fund is established FOR THE  
29 EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL  
30 PROGRAM ESTABLISHED BY THIS ARTICLE. Except as provided in section 3-272,  
31 subsection B, paragraph 2, all monies collected under the provisions of this  
32 article shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the  
33 TRUST fund.

34 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE  
35 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
36 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
37 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
38 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
39 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
40 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~  
41 SECTIONS 35-313 AND 35-314.03, and monies earned from the investment shall be  
42 credited to the TRUST fund.

43 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
44 ESTABLISHED BY THIS ARTICLE. The TRUST fund shall be used solely for the

1 ~~purpose of administering the provisions~~ PURPOSES of this article ~~upon~~ ON the  
2 order of the director.

3 D. The fertilizer materials TRUST fund shall be exempt from the  
4 provisions of section 35-190 relating to lapsing appropriations. SURPLUS  
5 MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE  
6 FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

7 Sec. 8. Section 3-344, Arizona Revised Statutes, is amended to read:

8 3-344. Advisory committee; membership; appointment; duties;  
9 uniformity of labeling and standards of pesticides

10 A. The director may appoint an advisory committee as needed to assist  
11 and advise the director and associate director in adopting technical rules.  
12 The director shall designate the chairman. Meetings of the committee shall  
13 be held upon call of the associate director or director. Members of the  
14 committee shall serve without compensation, but shall be entitled to  
15 reimbursement for expenses of travel and subsistence incurred in the  
16 performance of their duties, which shall be paid from and limited by the  
17 pesticide TRUST fund.

18 B. In order to avoid confusion endangering the public health, which  
19 would result from diverse requirements, particularly as to the labeling and  
20 coloring of pesticides, and to avoid increased costs to the public due to the  
21 necessity of complying with such diverse requirements in the manufacture and  
22 sale of such pesticides, it is desirable that there should be uniformity  
23 between the requirements of the several states and the federal government  
24 relating to such pesticides. To this end, the director may after a hearing  
25 adopt rules applicable to and in conformity with primary standards  
26 established by this article as have been or may be prescribed by federal  
27 agencies with respect to pesticides.

28 Sec. 9. Section 3-345, Arizona Revised Statutes, is amended to read:

29 3-345. Publications; membership in professional organizations

30 A. The department may publish, at such times and in such forms as the  
31 director deems proper, information concerning the production and use of  
32 pesticides and reports of chemists' findings based on official samples taken  
33 of pesticides sold within the state as compared with guaranteed ~~analysis~~  
34 ANALYSES registered under section 3-351.

35 B. The director may authorize employees of the department to:

36 1. Join and subscribe to any state, district, regional or national  
37 organizations or publications relating to and dealing with pesticides.

38 2. Attend state, district, regional and national meetings relating to  
39 pesticides that in the director's discretion may be necessary or for the best  
40 interests of those affected by this article.

41 C. Expenses authorized by this section shall be paid from and limited  
42 by the pesticide TRUST fund.

1           Sec. 10. Section 3-350, Arizona Revised Statutes, is amended to read:  
2           3-350. Pesticide trust fund

3           A. The pesticide TRUST fund is established FOR THE EXCLUSIVE PURPOSE  
4 OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM  
5 ESTABLISHED BY THIS ARTICLE. Except as provided in section 3-351, subsection  
6 D, paragraph 2, all monies collected under the provisions of this article  
7 shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the TRUST  
8 fund.

9           B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE  
10 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
11 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
12 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
13 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
14 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
15 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~  
16 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be  
17 credited to the TRUST fund.

18           C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
19 ESTABLISHED BY THIS ARTICLE. The TRUST fund shall be used solely for the  
20 ~~purpose of administering the provisions~~ PURPOSES of this article ~~upon~~ ON the  
21 order of the director.

22           D. The pesticide TRUST fund shall be exempt from the provisions of  
23 section 35-190 relating to lapsing appropriations. SURPLUS MONIES, INCLUDING  
24 ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT  
25 REVERT TO THE STATE GENERAL FUND.

26           Sec. 11. Section 3-354, Arizona Revised Statutes, is amended to read:  
27           3-354. Cease and desist orders; condemnation and destruction or  
28           sale of noncomplying pesticides or devices

29           A. When the director finds from investigation that any pesticide or  
30 device being distributed or delivered for transportation or transported in  
31 intrastate commerce or between points within the state through any point  
32 outside this state does not meet the requirements of this article as follows,  
33 the director may take the action prescribed by subsection B of this section:

34           1. In the case of a pesticide:  
35           (a) If it is adulterated or misbranded.  
36           (b) If it has not been registered, if necessary, under section 3-351.  
37           (c) If it fails to bear on its label the information required by law.  
38           (d) If it is a white powder pesticide and is not colored as required  
39 under this article.

40           2. In the case of a device, if it is misbranded.

41           B. Upon the discovery of any of the facts set forth in subsection A of  
42 this section:

43           1. The director may serve the person violating this article with a  
44 cease and desist order requiring the person, on receiving the notice, to

1 immediately cease and desist the violation. The order shall be served by any  
2 method of service authorized by the Arizona rules of civil procedure.

3 2. The department may issue and serve a written cease and desist order  
4 on the owner or custodian of any pesticide or device found to be in violation  
5 of this article. The pesticide or device shall not be sold, used or removed  
6 until this article has been complied with and the pesticide or device has  
7 been released in writing by the director or the violation has been otherwise  
8 disposed of as provided in this article by a court of competent jurisdiction.

9 3. If the director discovers any pesticide or device that is in  
10 violation of this article, and the owner or custodian is not available for  
11 service of the order, the director may attach the order to the pesticide or  
12 device and the pesticide or device shall not be sold, used or removed until  
13 this article has been complied with and the pesticide or device has been  
14 released in writing by the director or the violation has been otherwise  
15 disposed of as provided in this article by a court of competent jurisdiction.

16 C. After a cease and desist order is served on any person, either that  
17 person or the director may file an action in the superior court in the county  
18 in which a violation of this article is alleged to have occurred for an  
19 adjudication of the alleged violation. The court may issue temporary or  
20 permanent injunctions, mandatory or restraining, and intermediate orders it  
21 deems necessary or advisable. The court may order condemnation of any  
22 pesticide or device that does not meet the requirements of this article. The  
23 action shall be tried de novo.

24 D. If the article is condemned, it shall be disposed of, after entry  
25 of decree, by destruction or sale as the court directs, and the proceeds, if  
26 the article is sold, less legal costs, shall be paid into the pesticide TRUST  
27 fund. On payment of costs and execution and delivery of a good and  
28 sufficient bond conditioned so that the article shall not be disposed of  
29 unlawfully, the court may direct that the article be delivered to the owner  
30 of the article for relabeling or reprocessing as the case may be.

31 E. When a decree of condemnation is entered against the article, court  
32 costs, fees and storage and other proper expenses shall be awarded against  
33 the person, if any, intervening as claimant of the article.

34 Sec. 12. Section 3-415, Arizona Revised Statutes, is amended to read:

35 3-415. Administrative services; reimbursement

36 A. The marketing commission or marketing committee may employ staff,  
37 to serve at the pleasure of the commission or committee, and may prescribe  
38 the terms and conditions of employment of employees as necessary to perform  
39 the functions prescribed by this article, the marketing order or marketing  
40 agreement. The commission or committee may provide, at a rate or amount  
41 determined by the commission or committee, compensation, vehicles and vehicle  
42 expense, health care benefits, life insurance, retirement and any other cost  
43 or expense associated with employment. Reimbursement for travel and  
44 subsistence expenses for commission or committee employees shall be in the  
45 amount prescribed by title 38, chapter 4, article 2. All employees of the

1 commission or committee are exempt from title 38, chapter 4, articles 1 and 4  
2 ~~and chapter 5, article 2~~ and title 41, chapter 4, articles 5 and 6 and are  
3 not under the jurisdiction of the department of administration.

4 B. The commission or committee may also enter into an interagency  
5 agreement pursuant to title 11, chapter 7, article 3 with the department to  
6 provide necessary administrative services to the commission or committee  
7 including:

8 1. Providing secretarial and other services necessary for the  
9 commission or committee to carry out its activities.

10 2. Establishing separate operating accounts for the commission or  
11 committee.

12 3. Providing necessary financial and accounting services to the  
13 commission or committee including the issuance of checks, payment of bills  
14 approved by the commission or committee, annual audits, expenditure and  
15 receipt reports whether monthly or annually, preparation of annual budget and  
16 any other activities requested by the commission or committee.

17 4. Receiving mail and other communication for the commission or  
18 committee.

19 5. Receiving monies authorized under this article for  
20 deposit, ~~pursuant to sections 35-146 and 35-147,~~ in the appropriate TRUST  
21 funds FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING  
22 THE RESPECTIVE MARKETING ORDER OR MARKETING AGREEMENT. THE COMMISSION OR  
23 COMMITTEE SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE TREASURER  
24 SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED  
25 IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN  
26 SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE  
27 STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE COMMISSION  
28 OR COMMITTEE, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND  
29 MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-  
30 314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE TRUST  
31 FUND. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM ESTABLISHED  
32 BY THE MARKETING ORDER OR MARKETING AGREEMENT. THE TRUST FUND SHALL BE USED  
33 SOLELY FOR THOSE PURPOSES ON THE ORDER OF THE COMMISSION OR COMMITTEE.  
34 SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END  
35 OF THE FISCAL YEAR OR AT THE TERMINATION OF THE MARKETING ORDER OR AGREEMENT,  
36 DO NOT REVERT TO THE STATE GENERAL FUND.

37 6. Accepting donated monies on behalf of the commission or committee  
38 to be credited to the account of the commission or committee.

39 7. Providing space for the meetings of the commission or committee.

40 8. Providing any other administrative services that the commission or  
41 committee requests or finds necessary.

42 C. If the department performs any function under this article, it acts  
43 as the agent of the marketing commission or marketing committee and has no  
44 authority or control over the commission or committee or the commission's or  
45 committee's employees or assets. The commission or committee shall reimburse

1 the department for any administrative services the department provides from  
2 the monies received under the marketing order or marketing agreement in an  
3 amount agreed on by the commission or committee and the director. Any  
4 services provided by citrus, fruit and vegetable standardization or the  
5 department in the normal scope of services are not subject to reimbursement  
6 from a marketing commission or marketing committee.

7 Sec. 13. Section 3-417, Arizona Revised Statutes, is amended to read:

8 3-417. Assessments; collection; budget

9 A. The annual assessment rate shall not exceed five per cent of the  
10 annual gross sales dollar value of the affected commodity determined by the  
11 preceding marketing season. Not more than two per cent of the annual gross  
12 sales dollar value of the affected commodity may be used to pay costs  
13 associated with administering the marketing order. Assessment rates may be  
14 set on a per carton or equivalent basis.

15 B. Each marketing order shall state a method of collection. ~~+~~

16 ~~1-~~ For the initial year, an advance deposit of not more than ten per  
17 cent of the total assessments owing may be collected from affected persons  
18 based on the preceding marketing season.

19 ~~2-~~ If the marketing order affects producers only or if the marketing  
20 order affects both producers and shippers, the shipper shall withhold the  
21 assessments owed by the producer pursuant to the marketing order. The  
22 shipper is a trustee of the assessments until they are paid to the marketing  
23 commission. If the marketing order affects producers only, a producer is  
24 responsible for paying the assessments unless the assessments are withheld  
25 for payment by the shipper.

26 C. Each affected person shall keep a complete and accurate record of  
27 all of the affected commodity sold by the affected person. The records shall  
28 contain the information required to be kept for the citrus, fruit and  
29 vegetable ~~revolving~~ TRUST fund pursuant to articles 2 and 4 of this chapter  
30 and rules adopted pursuant to those articles.

31 D. Except for the first year of operation, on or before July 1 of each  
32 year, the marketing commission or marketing committee shall set an assessment  
33 according to the maximum rate of assessment established by this article, the  
34 marketing order or marketing agreement. Before establishing the assessment  
35 rate, the commission or committee shall establish an annual budget. The  
36 budget is effective on approval of the commission or committee.

37 E. Title 41, chapter 6 does not apply to setting and collecting the  
38 assessment under this section, but the commission or committee shall provide  
39 fifteen days' advance notice of the meeting at which the assessment will be  
40 adopted and the amount of the proposed assessment. The commission or  
41 committee shall receive public testimony at the meeting regarding the  
42 assessment.

1           Sec. 14. Section 3-447, Arizona Revised Statutes, is amended to read:  
2           3-447. Citrus, fruit and vegetable trust fund; administration

3           A. The citrus, fruit and vegetable ~~revolving~~ TRUST fund is established  
4 ~~consisting~~ FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND  
5 SUPPORTING THE AGRICULTURAL PROGRAM ESTABLISHED BY THIS ARTICLE AND ARTICLE 4  
6 OF THIS CHAPTER. THE TRUST FUND CONSISTS of revenues from assessments and  
7 other monies designated for deposit in the TRUST fund ~~in~~ BY this article and  
8 article 4 of this chapter ~~in order to provide the necessary monies to enforce~~  
9 ~~this article and article 4 of this chapter~~. The TRUST fund shall be used  
10 solely for the purpose of administering AND ENFORCING the provisions of this  
11 article and article 4 of this chapter.

12           B. ~~Monies in the fund may be invested~~ THE DIRECTOR SHALL ADMINISTER  
13 THE TRUST FUND AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY  
14 ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY,  
15 WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND  
16 WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY  
17 EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE STATE  
18 TREASURER SHALL INVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY  
19 pursuant to ~~section~~ SECTIONS 35-313 AND 35-314.03, and all interest earned on  
20 these monies shall be credited to the TRUST fund.

21           C. THE BENEFICIARIES OF THE TRUST ARE THE AGRICULTURAL PROGRAMS  
22 ESTABLISHED BY THIS ARTICLE AND ARTICLE 4 OF THIS CHAPTER.

23           D. Monies in the TRUST fund are exempt from the provisions of section  
24 35-190 relating to lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY  
25 UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT  
26 REVERT TO THE STATE GENERAL FUND.

27           ~~B.~~ E. The department shall make a detailed accounting on or before  
28 November 1 of each year of all monies paid into and disbursed from the  
29 citrus, fruit and vegetable ~~revolving~~ TRUST fund during the preceding fiscal  
30 year and transmit the report to the citrus, fruit and vegetable advisory  
31 council on or before December 1.

32           ~~C.~~ F. Any monies remaining unexpended in the TRUST fund on June 30  
33 each year shall be carried forward to the following year, and the supervisor  
34 shall take that amount into account in computing the assessments for that  
35 year.

36           Sec. 15. Section 3-448, Arizona Revised Statutes, is amended to read:  
37           3-448. Assessments; procedures; failure to pay; penalty and  
38 interest; hearing

39           A. In order to provide the necessary monies to enforce this article  
40 and article 4 of this chapter, the supervisor shall assess a charge against  
41 each shipper in an amount of not more than one and one-fourth cents per  
42 standard carton, or the equivalent weight, of each kind of fruit and  
43 vegetable, including citrus, shipped and regulated under this article and  
44 article 4 of this chapter. For bulk shipments of citrus used for by-products

1 with destinations both inside and outside this state a charge is assessed of  
2 not more than two dollars for each lot.

3 B. All monies collected from the assessments under this section shall  
4 be paid to the citrus, fruit and vegetable revolving TRUST fund.

5 C. The supervisor, pursuant to section 3-527.02, shall set the amount  
6 of the charges under this section annually with the approval of the director,  
7 but not in amounts greater than necessary to provide revenues to defray all  
8 of the proper expenses of carrying out the provisions of this article and  
9 article 4 of this chapter. The supervisor may establish assessments for each  
10 commodity based on the time that is necessary to inspect the commodity.

11 D. Before the supervisor may set or the director may approve an  
12 increase in the assessment, the supervisor shall provide thirty days' advance  
13 notice of a public hearing and the amount of the proposed assessment to all  
14 shippers who are licensed under sections 3-449 and 3-492 and to any other  
15 interested party. The supervisor shall receive testimony at the hearing  
16 regarding the proposed increase in the assessment. Title 41, chapter 6 does  
17 not apply to setting or collecting assessments under this section.

18 E. The supervisor shall compute the amount of assessments within the  
19 limits of this section and may bill the assessments twice monthly. Each  
20 shipper shall pay the charges to the supervisor within sixty days after the  
21 billing date.

22 F. A shipper who fails to pay the required assessment within sixty  
23 days after the billing date is subject to a penalty of ten per cent of the  
24 amount of the total assessment plus interest at a rate of two per cent per  
25 month on the unpaid balance.

26 G. A shipper may request a hearing before the supervisor to protest  
27 the amount of assessment, penalty or interest imposed. If requested, the  
28 supervisor shall hold the hearing. After the hearing the supervisor shall  
29 enter an order determining the amount of the fee, penalty and interest. The  
30 shipper shall pay that amount within ten days after notice of the  
31 supervisor's determination unless the decision is appealed to the director.  
32 The shipper may appeal the decision of the supervisor to the director. If  
33 the supervisor's decision is appealed, the director shall review the record  
34 of the hearing and affirm, modify or reverse the supervisor's decision.

35 H. For the purposes of this section, in addition to the definition of  
36 shipper contained in section 3-441, "shipper" shall also include shipper as  
37 defined in section 3-481.

38 Sec. 16. Section 3-449, Arizona Revised Statutes, is amended to read:  
39 3-449. Annual licensing; fee; application

40 A. No person shall transact business as a citrus fruit dealer, packer  
41 or shipper without first obtaining a license as provided in this article.  
42 The license expires on August 1 of each year and is renewable annually. The  
43 license fee shall be determined according to the annual gross sales based on  
44 the dealer's or shipper's previous fiscal year as follows:

1           1. If the annual gross sales are five hundred thousand dollars or  
2 more, the annual fee is four hundred fifty dollars.  
3           2. If the annual gross sales are between two hundred thousand dollars  
4 and five hundred thousand dollars, the annual fee is three hundred dollars.  
5           3. If the annual gross sales are two hundred thousand dollars or less,  
6 the annual fee is one hundred fifty dollars.  
7           4. If the person was not in business the previous fiscal year, the  
8 annual fee is one hundred fifty dollars.  
9           B. The application for a packer license shall be filed with the  
10 supervisor and be accompanied by an annual license fee of one hundred fifty  
11 dollars.  
12           C. If a person engages in business in more than one category as a  
13 dealer, shipper or packer, the license designation shall be based on the  
14 category in which most of the licensee's business is conducted.  
15           D. The license fees collected by the supervisor shall be paid into the  
16 citrus, fruit and vegetable revolving TRUST fund.  
17           E. The application for a dealer, shipper or packer license shall  
18 contain the following information:  
19           1. The full name of the person applying for the license.  
20           2. Whether the applicant is an individual, partnership, firm,  
21 corporation, association, trust or cooperative association and the full name  
22 of each member of the partnership or firm, the full name of each officer and  
23 director of the association or corporation or the full name of each trustee.  
24           3. The principal business address of the applicant in this state and  
25 elsewhere and the address where the applicant conducts the described  
26 business.  
27           4. The name of the statutory agent in this state for service of legal  
28 notice.  
29           5. The category of license for which the applicant is applying.  
30           6. A statement of the facts, signed under penalty of perjury,  
31 entitling the applicant to a license under the applicable category and  
32 stating whether the applicant has ever had any license to handle citrus,  
33 fruit or vegetables in any state denied, suspended or revoked.  
34           7. If the applicant acts as a commission merchant, a schedule of  
35 commissions and charges for services, which may not be altered during the  
36 term of the license except by written agreement between the parties involved.  
37           F. The supervisor shall issue to the applicant a license to conduct  
38 the business described for a period of one year unless it is revoked for  
39 cause.  
40           G. An applicant who tenders a renewal application for a license that  
41 is received by the supervisor after August 15 shall pay a penalty of  
42 twenty-five dollars. An applicant who tenders a renewal application for a  
43 license that is received after September 1 shall pay a penalty of fifty  
44 dollars. All penalties shall be deposited in the citrus, fruit and vegetable  
45 revolving TRUST fund.

1           Sec. 17. Section 3-449.04, Arizona Revised Statutes, is amended to  
2 read:

3           3-449.04. Appeals from inspections

4           A. If the owner, or the owner's agent, of all or part of a lot  
5 disagrees with the decision of an inspector as to whether the lot or part of  
6 the lot conforms to the standards adopted pursuant to this article, the owner  
7 or agent may request that the supervisor or the supervisor's designee, other  
8 than the inspector, review the testing procedures used by the inspector.  
9 When reviewing the procedures, the supervisor or designee shall consider the  
10 accuracy of the test instruments, the inspection methods, including the  
11 sample size, the defect determination, the percentage of the defective  
12 product and any other relevant information.

13           B. The supervisor or designee shall conduct the review within eight  
14 hours of the request.

15           C. If the supervisor or designee determines that the inspector used  
16 improper testing procedures, a new inspection shall be ordered of the lot or  
17 part of the lot within four hours after completing the review in order to  
18 determine compliance. The determination after the reinspection is final.

19           D. The person who requests the review shall pay a fee of twenty-five  
20 dollars for the review. All monies collected under this subsection shall be  
21 deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund.

22           Sec. 18. Section 3-450, Arizona Revised Statutes, is amended to read:

23           3-450. Exemption from citrus fruit standardization; definitions

24           A. The supervisor shall exempt any citrus fruit commodity from all  
25 rules established pursuant to section 3-445, subsection B, paragraphs 1  
26 through 5 and shall exempt the collection of assessments for the commodity  
27 subject to this article if the exemption is supported by at least fifty-one  
28 per cent of the producers who produce at least fifty-one per cent of the  
29 total quantity of that particular citrus fruit commodity that was marketed  
30 during the preceding year and all of the other requirements of this section  
31 have been met. For the purposes of this subsection, "quantity" means the  
32 percentage of ownership interest a producer has in the marketed cartons.

33           B. To initiate the exemption process, a producer or shipper shall  
34 present to the supervisor a petition signed by producers, under penalty of  
35 perjury, who represent at least one-third of the cartons of the commodity  
36 produced in the previous year. The petition shall be submitted on a form  
37 prescribed and furnished by the supervisor. On receiving the petition, the  
38 supervisor shall negotiate with the petitioner a fee for the estimated costs  
39 of the notification, balloting and certification process under this section.  
40 The petitioner is responsible for all costs associated with this process and  
41 shall pay to the supervisor at least one-half of the fee before proceeding  
42 with the petition process.

43           C. Within ten days after receiving the fee payment under subsection B  
44 of this section, the supervisor shall send a notice and a ballot to each  
45 shipper of the commodity by certified mail, return receipt requested. The

1 notice shall include a statement that the shipper shall notify each producer  
2 the shipper represents of the exemption petition and of the producer's right  
3 to support or oppose the exemption.

4 D. Within sixty days after receiving the notice from the supervisor,  
5 each shipper shall return the ballot to the supervisor, filed under penalty  
6 of perjury, containing the following information:

7 1. The name of each producer of the particular commodity that the  
8 shipper deals with.

9 2. The total number of cartons produced in the preceding year by each  
10 producer based on the percentage of ownership.

11 3. The vote of each producer based on the percentage of ownership of  
12 cartons.

13 E. If a shipper fails to return the ballot as prescribed by subsection  
14 D of this section, the supervisor may audit the shipper to ensure compliance  
15 with section 3-449.03.

16 F. Within ninety days after receiving the ballots issued under this  
17 section, the supervisor shall review the ballots and determine the results.  
18 On payment of the full amount of the costs of the petition process as  
19 determined under subsection B of this section, the supervisor shall certify  
20 and issue the results of the ballots. If the supervisor certifies that the  
21 ballots meet the requirements of this section, the supervisor shall provide  
22 public notice of the date the exemption becomes effective, which shall be  
23 within ninety days after the supervisor certifies and issues the results of  
24 the balloting.

25 G. Information provided by shippers to the supervisor for purposes of  
26 this section is confidential and is not a public record, and the supervisor  
27 shall not disclose the information for any purpose except for the purpose of  
28 an appeal under subsection H of this section.

29 H. The petitioner and any producer or shipper of the commodity for  
30 which exemption is being sought has the right to appeal to the director on  
31 any of the following issues:

32 1. The validity of the petition submitted under subsection B of this  
33 section.

34 2. The notice requirements of this section.

35 3. The sufficiency of the submitted ballots.

36 4. The costs of the petition process.

37 I. All monies collected by the supervisor pursuant to this section  
38 shall be deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund  
39 established by section 3-447.

40 J. The procedures prescribed by this section also apply for producers  
41 and shippers to rescind an exemption that was previously granted under this  
42 section. The rescission becomes effective on July 1 of a year as determined  
43 by the supervisor. No rescission may take effect until the exemption has  
44 been in effect for at least two years.

1 K. For the purposes of this section:

2 1. "Producer" means a single legal entity that has a percentage  
3 ownership interest in the marketed commodity.

4 2. "Year" means July 1 through June 30.

5 Sec. 19. Section 3-466, Arizona Revised Statutes, is amended to read:  
6 3-466. Civil penalty; hearing

7 A. A person is subject to a civil penalty of not more than five  
8 hundred dollars, if the person does either of the following:

9 1. Acts as a dealer, shipper or packer without a valid license.

10 2. Knowingly falsifies or causes to be falsified information in a  
11 record intended to show proof of ownership.

12 B. A person shall be subject to a civil penalty of not more than three  
13 hundred dollars, if the person does any of the following:

14 1. Makes a written or oral false, deceptive or misleading  
15 representation or assertion concerning the quality, size, maturity or  
16 condition of citrus fruit.

17 2. Alters, removes or destroys a warning notice from a lot or part of  
18 a lot to which it was affixed except on written authorization of an  
19 inspector, the supervisor or the director or by court order.

20 3. Alters a notice of noncompliance, notice of compliance or notice of  
21 disposal that is issued by an inspector.

22 4. Refuses to submit any container or lot of citrus fruit governed  
23 pursuant to this article to an inspection of a representative sample or to  
24 refuse to stop and permit inspection of a representative sample of any  
25 commercial vehicle containing citrus fruit governed pursuant to this article.

26 C. A commission merchant is subject to a civil penalty of not more  
27 than five hundred dollars, if the commission merchant does any of the  
28 following:

29 1. Knowingly makes a false or misleading statement as to the condition  
30 of any citrus fruit.

31 2. Makes a fraudulent charge or return for handling or selling citrus  
32 fruit or for rendering any service in connection with handling or selling  
33 citrus fruit.

34 3. Reconsigns a consignment to receive, collect or charge more than  
35 one commission without the consent of the consignor.

36 4. Sells citrus fruit at less than market price to a person with whom  
37 the consignment merchant has a direct or indirect financial connection.

38 5. Makes a sale and directly or indirectly receives a portion of the  
39 purchase price other than the commission specified in the contract.

40 D. A person who is charged with violating this article or rules  
41 adopted pursuant to this article may request a hearing pursuant to title 41,  
42 chapter 6, article 10.

43 E. Civil penalties collected pursuant to this section shall be  
44 deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund.

1           Sec. 20. Section 3-468.04, Arizona Revised Statutes, is amended to  
2 read:

3           3-468.04. Fees; collection; budget

4           A. On or before July 1 of each calendar year, the council shall assess  
5 a fee of not more than one and one-half cents per standard carton of citrus  
6 produced. For the purposes of this subsection, "standard carton" means a  
7 container or package prescribed for each kind of citrus fruit pursuant to  
8 article 2 of this chapter and rules adopted under that article.

9           B. Each grower-shipper, shipper and handler shall keep a complete and  
10 accurate record of all citrus handled by such entities and the producer.  
11 These records shall contain such information as required to be kept for the  
12 citrus, fruit and vegetable ~~revolving~~ TRUST fund pursuant to articles 2 and 4  
13 of this chapter and rules adopted pursuant to those articles.

14           C. Assessments shall be collected from the grower-shipper, shipper or  
15 handler first marketing the citrus being assessed. The grower-shipper,  
16 shipper or handler is a trustee of the monies until they are paid to the  
17 council pursuant to subsection B and according to procedures established  
18 pursuant to articles 2 and 4 of this chapter and rules adopted pursuant to  
19 those articles. A citrus producer is responsible for paying the fee unless  
20 the fee is withheld for payment by the grower-shipper, shipper or handler  
21 first marketing the citrus.

22           D. Before establishing the annual fee, the council shall establish a  
23 budget. The budget is effective on approval of the council.

24           E. Title 41, chapter 6 does not apply to setting and collecting the  
25 fee under this section, but the council shall provide thirty days' advance  
26 notice of the meeting at which any fee will be increased and the amount of  
27 the proposed fee. The council shall receive public testimony at the meeting  
28 regarding the fee.

29           Sec. 21. Section 3-468.06, Arizona Revised Statutes, is amended to  
30 read:

31           3-468.06. Arizona citrus trust fund

32           A. THE ARIZONA CITRUS TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE  
33 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM  
34 ESTABLISHED BY THIS ARTICLE. Monies collected pursuant to this article shall  
35 be deposited in the ~~council's accounts that are~~ TRUST FUND.

36           B. THE FUND SHALL BE administered by the ~~department~~ DIRECTOR AS  
37 TRUSTEE AND as the council's agent. ~~and~~ THE STATE TREASURER SHALL ACCEPT,  
38 SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE  
39 TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-  
40 310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE  
41 TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE  
42 STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN  
43 THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-314.03, AND MONIES  
44 EARNED FROM THE INVESTMENT SHALL BE CREDITED TO THE TRUST FUND.

1 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
2 ESTABLISHED BY THIS ARTICLE. MONIES IN THE TRUST FUND SHALL BE disbursed as  
3 approved by the council EXCLUSIVELY for the purposes prescribed in this  
4 article.

5 D. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE  
6 AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

7 ~~B.~~ E. If the council is terminated, any monies in the ~~council's~~  
8 ~~accounts~~ TRUST FUND shall be expended to meet existing legal obligations of  
9 the council. The council shall expend any remaining monies on any program  
10 consistent with this article.

11 ~~C. On notice from the council, the state treasurer shall invest and~~  
12 ~~divest monies in the account as provided by section 35-313, and monies earned~~  
13 ~~from investment shall be credited to the account.~~

14 Sec. 22. Section 3-484, Arizona Revised Statutes, is amended to read:  
15 3-484. Deputies and clerks; compensation; expenses

16 A. The compensation of the supervisor shall be as determined pursuant  
17 to section 38-611. The supervisor ~~shall~~, with the approval of the director,  
18 **SHALL** fix the duties of each deputy and clerk. Compensation of the deputies  
19 and clerks shall be as determined pursuant to section 38-611.

20 B. The compensation of the supervisor and all expenses properly  
21 incurred in the enforcement of this article, including but not limited to  
22 compensation, travel and subsistence expenses and office expenses, shall be  
23 paid from the citrus, fruit and vegetable ~~revolving~~ TRUST fund provided for  
24 in section 3-447.

25 Sec. 23. Section 3-489, Arizona Revised Statutes, is amended to read:  
26 3-489. Requests for inspection by unlicensed or unregistered  
27 persons; fees

28 A. A person who is not licensed under article 2 of this chapter or  
29 this article and who requests inspection of citrus, fruit, vegetables or nuts  
30 shall pay a fee to the citrus, fruit and vegetable ~~revolving~~ TRUST fund. The  
31 supervisor shall set the amount of the fee by rule and shall assess and  
32 collect the fee for inspection service performed by the supervisor or the  
33 supervisor's employees. The fee shall be an amount reasonably necessary to  
34 cover the costs of inspection and processing of the necessary documentation.  
35 Before setting the fee, the supervisor shall consult with the citrus, fruit  
36 and vegetable advisory council.

37 B. The fee is due and payable on completing the inspection. If the  
38 fee is not paid, the supervisor may refuse to perform any further inspection  
39 services.

40 C. The supervisor may prescribe a different scale of fees for  
41 different locations and different commodities based on the amount of time  
42 necessary to inspect the commodities. The supervisor may assess a charge for  
43 traveling expenses pursuant to title 38, chapter 4, article 2.

44 D. This section does not apply to any inspection services performed  
45 pursuant to article 1 of this chapter.

1           Sec. 24. Section 3-491, Arizona Revised Statutes, is amended to read:

2           3-491. Exemption from fruit or vegetable standardization:  
3                           definitions

4           A. The supervisor shall exempt any fruit or vegetable commodity from  
5 all rules established pursuant to section 3-487, subsection B, paragraphs 1  
6 through 5 and shall exempt the collection of assessments for the commodity  
7 subject to this article if the exemption is supported by at least fifty-one  
8 per cent of the producers who produce at least fifty-one per cent of the  
9 total quantity of that particular fruit or vegetable commodity that was  
10 marketed during the preceding year and all of the other requirements of this  
11 section have been met. For the purposes of this subsection, "quantity" means  
12 the percentage of ownership interest a producer has in the marketed cartons.

13           B. To initiate the exemption process, a producer or shipper shall  
14 present to the supervisor a petition signed by producers, under penalty of  
15 perjury, who represent at least one-third of the cartons of the commodity  
16 produced in the previous year. The petition shall be submitted on a form  
17 prescribed and furnished by the supervisor. On receiving the petition, the  
18 supervisor shall negotiate with the petitioner a fee for the estimated costs  
19 of the notification, balloting and certification process under this section.  
20 The petitioner is responsible for all costs associated with this process and  
21 shall pay to the supervisor at least one-half of the fee before proceeding  
22 with the petition process.

23           C. Within ten days after receiving the fee payment under subsection B  
24 of this section, the supervisor shall send a notice and a ballot to each  
25 shipper of the commodity by certified mail, return receipt requested. The  
26 notice shall include a statement that the shipper shall notify each producer  
27 the shipper represents of the exemption petition and of the producer's right  
28 to support or oppose the exemption.

29           D. Within sixty days after receiving the notice from the supervisor,  
30 each shipper shall return the ballot to the supervisor, filed under penalty  
31 of perjury, containing the following information:

32           1. The name of each producer of the particular commodity that the  
33 shipper deals with.

34           2. The total number of cartons produced in the preceding year by each  
35 producer based on the percentage of ownership.

36           3. The vote of each producer based on the percentage of ownership of  
37 cartons.

38           E. If a shipper fails to return the ballot as prescribed by subsection  
39 D of this section, the supervisor may audit the shipper to ensure compliance  
40 with this article.

41           F. Within ninety days after receiving the ballots issued under this  
42 section, the supervisor shall review the ballots and determine the results.  
43 On payment of the full amount of the costs of the petition process as  
44 determined under subsection B of this section, the supervisor shall certify  
45 and issue the results of the ballots. If the supervisor certifies that the

1 ballots meet the requirements of this section, the supervisor shall provide  
2 public notice of the date the exemption becomes effective, which shall be  
3 within ninety days after the supervisor certifies and issues the results of  
4 the balloting.

5 G. Information provided by shippers to the supervisor for purposes of  
6 this section is confidential and is not a public record, and the supervisor  
7 shall not disclose the information for any purpose except for the purpose of  
8 an appeal under subsection H of this section.

9 H. The petitioner and any producer or shipper of the commodity for  
10 which exemption is being sought has the right to appeal to the director on  
11 any of the following issues:

12 1. The validity of the petition submitted under subsection B of this  
13 section.

14 2. The notice requirements of this section.

15 3. The sufficiency of the submitted ballots.

16 4. The costs of the petition process.

17 I. All monies collected by the supervisor pursuant to this section  
18 shall be deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund  
19 established by section 3-447.

20 J. The procedures prescribed by this section also apply for producers  
21 and shippers to rescind an exemption that was previously granted under this  
22 section. The rescission becomes effective on July 1 of a year as determined  
23 by the supervisor. No rescission may take effect until the exemption has  
24 been in effect for at least two years.

25 K. For the purposes of this section:

26 1. "Producer" means a single legal entity that has a percentage  
27 ownership interest in the marketed commodity.

28 2. "Year" means July 1 through June 30.

29 Sec. 25. Section 3-492, Arizona Revised Statutes, is amended to read:

30 3-492. Licensing dealers, shippers and packers; application;  
31 fee

32 A. No person shall act as a dealer or shipper without first obtaining  
33 a license as provided in this article. Application for the license shall be  
34 filed with the supervisor and accompanied by a license fee determined  
35 according to the annual gross sales based on the dealer's or shipper's  
36 previous fiscal year as follows:

37 1. If the annual gross sales are five hundred thousand dollars or  
38 more, the annual fee is five hundred dollars.

39 2. If the annual gross sales are between two hundred thousand dollars  
40 and five hundred thousand dollars, the annual fee is three hundred fifty  
41 dollars.

42 3. If the annual gross sales are two hundred thousand dollars or less,  
43 the annual fee is two hundred dollars.

44 4. If the person was not in business the previous fiscal year, the  
45 annual fee is two hundred dollars.

1 B. A person may not act as a packer without first obtaining a license  
2 as provided in this article. The application for a packer license shall be  
3 filed with the supervisor and accompanied by an annual license fee of two  
4 hundred dollars.

5 C. If a person engages in business in more than one category as a  
6 dealer, shipper or packer, the license designation shall be based on the  
7 category in which most of the licensee's business is conducted.

8 D. The monies received as license fees under this section shall be  
9 paid into the citrus, fruit and vegetable ~~revolving~~ TRUST fund. The license  
10 shall expire on September 1 of each year and is renewable annually.

11 E. The application for a dealer, shipper or packer license shall  
12 contain the following information:

13 1. The full name of the person applying for the license.

14 2. Whether the applicant is an individual, partnership, firm,  
15 corporation, association, trust or cooperative association and the full name  
16 of each member of the partnership or firm, the full name of each officer and  
17 director of the association or corporation or the full name of each trustee.

18 3. The principal business address of the applicant in this state and  
19 elsewhere and the address where the applicant conducts the described  
20 business.

21 4. The name of the statutory agent in this state for service of legal  
22 notice.

23 5. The category of license for which the applicant is applying.

24 6. A statement of the facts, signed under penalty of perjury,  
25 entitling the applicant to a license under the applicable category and  
26 stating whether the applicant has ever had any license to handle citrus,  
27 fruit or vegetables in any state denied, suspended or revoked.

28 7. If the applicant acts as a commission merchant, a schedule of  
29 commissions and charges for services, which may not be altered during the  
30 term of the license except by written agreement between the parties involved.

31 F. The supervisor shall issue to the applicant a license to conduct  
32 the business described for a period of one year unless it is revoked for  
33 cause.

34 G. An applicant who tenders a renewal application for a license that  
35 is received by the supervisor after September 15 shall pay a penalty of  
36 twenty-five dollars. An applicant who tenders a renewal application for a  
37 license that is received after October 1 shall pay a penalty of fifty  
38 dollars. All penalties shall be deposited in the citrus, fruit and vegetable  
39 ~~revolving~~ TRUST fund.

40 Sec. 26. Section 3-498, Arizona Revised Statutes, is amended to read:

41 3-498. Appeals from inspection

42 A. If the owner, or the owner's agent, of all or part of a lot  
43 disagrees with the decision of an inspector as to whether the lot or part of  
44 the lot conforms to the standards and other rules adopted pursuant to this  
45 article, the owner or agent may request that the supervisor or the

1 supervisor's designee, other than the inspector, review the testing  
2 procedures used by the inspector. When reviewing the procedures, the  
3 supervisor or designee shall consider the accuracy of the test instruments,  
4 the inspection methods, including the sample size, the defect determination,  
5 the percentage of the defective product and any other relevant information.

6 B. The supervisor or designee shall conduct the review within eight  
7 hours of the request. If the supervisor or designee determines that the  
8 inspector used improper testing procedures, a new inspection shall be ordered  
9 of the lot or part of the lot within four hours after completing the review  
10 in order to determine compliance. The determination after the reinspection  
11 is final.

12 C. The person who requests the review shall pay a fee of twenty-five  
13 dollars for the review. All monies collected under this subsection shall be  
14 deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund.

15 Sec. 27. Section 3-521, Arizona Revised Statutes, is amended to read:  
16 3-521. Civil penalties; hearing

17 A. A person is subject to a civil penalty of not more than five  
18 hundred dollars, if the person does either of the following:

- 19 1. Acts as a dealer, shipper or packer without a valid license.  
20 2. Knowingly falsifies or causes to be falsified information in a  
21 record intended to show proof of ownership.

22 B. A person shall be subject to a civil penalty of not more than three  
23 hundred dollars, if the person does any of the following:

- 24 1. Makes a written or oral false, deceptive or misleading  
25 representation or assertion concerning the quality, size, maturity or  
26 condition of fruit or vegetables.  
27 2. Alters, removes or destroys a warning notice from a lot or part of  
28 a lot to which it was affixed except on written authorization of an  
29 inspector, the supervisor or the director or by court order.  
30 3. Alters a notice of noncompliance, notice of compliance or notice of  
31 disposal that is issued by an inspector.

32 4. Refuses to submit any container or lot of fruit or vegetables  
33 governed by this article to an inspection of a representative sample or  
34 refuses to stop and permit inspection of a representative sample of any  
35 commercial vehicle containing fruit and vegetables governed by this article.

36 C. A commission merchant is subject to a civil penalty of not more  
37 than five hundred dollars, if the commission merchant does any of the  
38 following:

- 39 1. Knowingly makes a false or misleading statement as to the condition  
40 of any fruit or vegetable.  
41 2. Makes a fraudulent charge or return for handling or selling a fruit  
42 or vegetable or for rendering any service in connection with handling or  
43 selling a fruit or vegetable.  
44 3. Reconsigns a consignment to receive, collect or charge more than  
45 one commission without the consent of the consignor.

1           4. Sells a fruit or vegetable at less than market price to a person  
2 with whom the consignment merchant has a direct or indirect financial  
3 connection.

4           5. Makes a sale and directly or indirectly receives a portion of the  
5 purchase price other than the commission specified in the contract.

6           D. A person who is charged with violating this article or rules  
7 adopted pursuant to this article may request a hearing before an  
8 administrative law judge pursuant to title 41, chapter 6, article 10. The  
9 decision of the administrative law judge is subject to review by the director  
10 as provided by title 41, chapter 6, article 10.

11           E. Civil penalties collected pursuant to this section shall be  
12 deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund.

13           Sec. 28. Section 3-526.04, Arizona Revised Statutes, is amended to  
14 read:

15           3-526.04. Fees; collection; budget

16           A. On or before July 1 of each calendar year, the council shall assess  
17 a fee of not more than one-half cent per carton of packed iceberg lettuce or  
18 bulk bins assessed according to forty-five pounds of equivalent weight of  
19 iceberg lettuce prepared for market or an equivalent basis.

20           B. Each grower-shipper, shipper and handler shall keep a complete and  
21 accurate record of all iceberg lettuce handled by such entities and the  
22 producer. These records shall contain such information as required to be  
23 kept for the citrus, fruit and vegetable ~~revolving~~ TRUST fund pursuant to  
24 articles 2 and 4 of this chapter and rules adopted pursuant to those  
25 articles.

26           C. Assessments shall be collected from the grower-shipper, shipper or  
27 handler first marketing the iceberg lettuce being assessed. The  
28 grower-shipper, shipper or handler is a trustee of the monies until they are  
29 paid to the council at the time and in the manner prescribed by the council.  
30 An iceberg lettuce producer is responsible for paying the fee unless the fee  
31 is withheld for payment by the grower-shipper, shipper or handler first  
32 marketing the iceberg lettuce.

33           D. Before establishing the annual fee, the council shall establish a  
34 budget. The budget is effective on approval of the council.

35           E. Title 41, chapter 6 does not apply to setting and collecting the  
36 fee under this section, but the council shall provide thirty days' advance  
37 notice of the meeting at which any fee will be increased and the amount of  
38 the proposed fee. The council shall receive public testimony at the meeting  
39 regarding the fee.

40           Sec. 29. Section 3-526.06, Arizona Revised Statutes, is amended to  
41 read:

42           3-526.06. Iceberg lettuce trust fund

43           A. **THE ICEBERG LETTUCE TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE**  
44 **PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM**

1 ESTABLISHED BY THIS ARTICLE. Monies collected pursuant to section 3-526.04  
2 shall be deposited in the ~~council's accounts that are~~ TRUST FUND.

3 B. THE FUND SHALL BE administered by the ~~department~~ DIRECTOR AS  
4 TRUSTEE AND as the council's agent ~~and~~. THE STATE TREASURER SHALL ACCEPT,  
5 SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE  
6 TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION  
7 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE  
8 TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE  
9 STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN  
10 THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-314.03, AND MONIES  
11 EARNED FROM THE INVESTMENT SHALL BE CREDITED TO THE TRUST FUND.

12 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
13 ESTABLISHED BY THIS ARTICLE. MONIES IN THE TRUST FUND SHALL BE disbursed as  
14 approved by the council EXCLUSIVELY for the purposes prescribed in this  
15 article.

16 D. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE  
17 AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

18 ~~B-~~ E. If the council is terminated, any monies in the ~~council's~~  
19 ~~accounts~~ TRUST FUND shall be expended to meet existing legal obligations of  
20 the council. The council shall expend any remaining monies on any program  
21 consistent with this article.

22 ~~C. The monies in the account may be invested pursuant to section~~  
23 ~~35-313. Interest earned on these monies shall be credited to the account.~~

24 Sec. 30. Section 3-584, Arizona Revised Statutes, is amended to read:  
25 3-584. Powers and duties of the council

26 A. The council shall:

27 1. Meet at least once during each calendar quarter and more frequently  
28 on the call of the chairman, vice-chairman or any three members of the  
29 council.

30 2. Annually elect a chairman from among its members.

31 3. Elect a secretary and a treasurer from among its members.

32 4. Establish an executive committee, consisting of the chairman,  
33 secretary and treasurer. The executive committee shall act pursuant to  
34 direction received from the full council, or if the situation arises, the  
35 executive committee shall act and then bring the subject and its action  
36 before the full council at the next regular meeting of the council for review  
37 and ratification.

38 5. Establish fees to be assessed within the limits prescribed in  
39 section 3-587 TO BE HELD IN TRUST IN, AND SUBJECT TO THE TERMS AND CONDITIONS  
40 PRESCRIBED FOR, THE ARIZONA GRAIN RESEARCH TRUST FUND ESTABLISHED BY SECTION  
41 3-590.

42 B. Programs and projects authorized under this article may include:

43 1. Cooperation in state, regional, national or international  
44 activities with public or private organizations or individuals to assist in

1 developing and expanding markets and reducing the cost of marketing grain and  
2 grain products.

3 2. Participation in research projects and programs to assist in  
4 reducing fresh water consumption, developing new grain varieties, improved  
5 production and handling methods, research and design of new or improved  
6 harvesting and handling equipment.

7 3. Any program or project that the council determines appropriate to  
8 provide education, publicity or other assistance to facilitate further  
9 development of the Arizona grain industry.

10 C. The council may:

11 1. Adopt administrative rules necessary to promptly and effectively  
12 administer this article.

13 2. Appoint subordinate officers and employees of the council,  
14 prescribe their duties and fix their compensation.

15 3. Accept donations of monies, property, services or other assistance  
16 from public or private sources for the purpose of furthering the objectives  
17 of this article. ALL DONATIONS OF MONIES SHALL BE HELD IN TRUST IN, AND  
18 SUBJECT TO THE TERMS AND CONDITIONS PRESCRIBED FOR, THE ARIZONA GRAIN  
19 RESEARCH TRUST FUND ESTABLISHED BY SECTION 3-590.

20 4. Investigate and prosecute in the name of this state any action or  
21 suit to enforce the collection or ensure payment of the fees authorized and  
22 sue and be sued in the name of the council.

23 5. Make grants to research agencies for financing appropriate studies,  
24 research projects and programs to assist in reducing fresh water consumption,  
25 developing new grain varieties, improved production and handling methods and  
26 research and design of new or improved harvesting and handling equipment.

27 Sec. 31. Section 3-590, Arizona Revised Statutes, is amended to read:  
28 3-590. Arizona grain research trust fund

29 A. The Arizona grain research TRUST fund is established for the  
30 EXCLUSIVE purpose of ~~administering~~ IMPLEMENTING, CONTINUING AND SUPPORTING  
31 THE AGRICULTURAL PROGRAM ESTABLISHED BY this article. The council shall  
32 administer the TRUST fund AS TRUSTEE. The TRUST fund consists of fees  
33 collected pursuant to this article.

34 B. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
35 ESTABLISHED BY THIS ARTICLE. THE TRUST FUND SHALL BE USED EXCLUSIVELY FOR  
36 THE PURPOSES OF THIS ARTICLE ON THE ORDER OF THE COUNCIL.

37 C. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD  
38 IN TRUST MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE  
39 TRUST MONIES AS DEFINED BY SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED  
40 WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES.  
41 On notice from the council, the state treasurer shall invest and divest  
42 ~~monies in the~~ TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided  
43 by ~~section~~ SECTIONS 35-313 AND 35-314.03, and monies earned from investment  
44 shall be credited to the TRUST fund.

1 D. Monies in the TRUST fund are exempt from the provisions of section  
2 35-190 relating to lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY  
3 UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT  
4 REVERT TO THE STATE GENERAL FUND.

5 ~~B-~~ E. If the council is terminated, any monies remaining in the TRUST  
6 fund after terminating this article shall be expended to meet existing legal  
7 obligations of the council. The council shall expend any surplus remaining  
8 for market research or other lawful purposes under this article.

9 Sec. 32. Section 3-592, Arizona Revised Statutes, is amended to read:

10 3-592. Refund of fees

11 A producer may by the use of forms provided by the council, and on  
12 presentation of such proof as the council may require, have the fee refunded.  
13 A request for refund must be received in the office of the council within  
14 sixty days following the payment of the fee BY THE FIRST BUYER OR THE FIRST  
15 PURCHASER. The council shall DIRECT THE STATE TREASURER, AS TRUSTEE, TO make  
16 refunds within thirty days of the request for refund if the fee sought to be  
17 refunded has been received. The council shall adopt such rules as are  
18 necessary to further ensure that the fees are refunded promptly.

19 Sec. 33. Section 3-710, Arizona Revised Statutes, is amended to read:

20 3-710. Powers and duties; preemption

21 A. The department may acquire and distribute to persons interested  
22 useful information relative to the preparation for market, handling,  
23 purchasing, transportation, storage and marketing of eggs and egg products,  
24 including the demonstration of how to classify eggs and egg products in  
25 accordance with the uniform standards and grades prescribed pursuant to this  
26 chapter.

27 B. The department may issue in booklet form copies of this article  
28 containing complete descriptive terms as to shell, aircell, white, yolk and  
29 germ, and may make changes in definitions of terms and grades as they are  
30 made and promulgated by the United States department of agriculture.

31 C. ~~Upon~~ ON request of the United States government, and others, the  
32 director may negotiate and sign cooperative agreements to do inspection and  
33 grading services and charge and receive payment for the reasonable cost  
34 thereof. The ~~funds~~ MONIES received for such services shall be  
35 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the state egg  
36 inspection TRUST fund.

37 D. When the production of papers, books and records relating to any  
38 matter under investigation is deemed advisable, the director may apply to the  
39 superior court in any county for an order requiring the production of the  
40 papers, books and records. If the court is satisfied that the papers, books  
41 and records are pertinent to the matter under investigation, their production  
42 shall be ordered.

43 E. A complaint filed with the department charging a noncompliance with  
44 or violation of any provision of this article shall be in writing and signed  
45 by the complainant.

1 F. The supervisor and inspectors shall enforce the provisions of this  
2 article in conformity with rules adopted by the director. The refusal of an  
3 officer authorized under this article to carry out the orders and directions  
4 of the director in the enforcement of this article or prosecutions thereunder  
5 is neglect of duty. The director shall make and enforce such rules as he  
6 deems necessary to carry out the provisions of this article.

7 G. An inspector may enter and inspect any place or conveyance within  
8 the state over which he has supervision where eggs are produced, candled,  
9 incubated, stored, packed, delivered for shipment, loaded, shipped,  
10 transported or sold, and may inspect all invoices, eggs and the cases and  
11 containers thereof and equipment found in the places or conveyances, and may  
12 take for inspection representative samples of the invoices, eggs and cases or  
13 containers for the purpose of determining whether or not any provision of  
14 this article has been violated.

15 H. An inspector ~~may~~, while enforcing the provisions of this article,  
16 **MAY** seize and hold as evidence an advertisement, sign, placard, invoice, case  
17 or container of eggs or egg products or all or any part of any pack, load,  
18 lot consignment or shipment of eggs or egg products packed, stored, delivered  
19 for shipment, loaded, shipped, transported or sold in violation of any  
20 provisions of this article.

21 I. The department may prescribe minimum standards for egg processing  
22 plants and sanitary standards for the processing of shell eggs. The  
23 department shall establish these standards by rule. Chemicals used in egg  
24 processing plants, sanitizers used in egg processing, egg soaps, egg oil and  
25 other substances used in processing shell eggs are subject to the approval of  
26 the director.

27 J. The director shall adopt rules for poultry husbandry and the  
28 production of eggs sold in this state. This subsection does not apply to egg  
29 producers operating or controlling the operation of one or more egg ranches  
30 each having fewer than twenty thousand egg-laying hens producing eggs.

31 K. Consistency of poultry husbandry practices for the production of  
32 eggs is a statewide matter. The regulation of poultry husbandry practices  
33 related to the production of eggs is not subject to further regulation by a  
34 county, city, town or other political subdivision of this state.

35 Sec. 34. Section 3-716, Arizona Revised Statutes, is amended to read:

36 3-716. Inspection fees; report and payment by dealers;  
37 exception; penalty; collection

38 A. An inspection fee of not more than three mills per dozen on shell  
39 eggs and three mills per pound on egg products shall be paid by a dealer,  
40 producer-dealer, manufacturer or producer on all eggs and egg products  
41 regardless of origin, sold to a retailer, hotel, hospital, bakery,  
42 restaurant, other eating place or consumer for human consumption within this  
43 state. Inspection fees on eggs used for the purpose of breaking, freezing or  
44 drying shall be paid by the manufacturer, dealer or distributor if sold or

1 offered for sale to retailers or consumers for human consumption within this  
2 state.

3 B. If it appears that the revenue derived from inspection fees is more  
4 than is required for the administration of this article, the director may  
5 decrease the inspection fee and at any time thereafter may increase or  
6 decrease the inspection fee, but at no time shall it exceed an amount of  
7 three mills per dozen on shell eggs or three mills per pound on egg products.

8 C. All manufacturers, dealers, producer-dealers and producers shall  
9 file:

10 1. A quarterly report with the department showing the name and address  
11 of the manufacturer, dealer, producer-dealer or producer.

12 2. The number of dozen of eggs or pounds of egg products sold or  
13 delivered for the period to retail stores, hotels, hospitals, bakeries,  
14 restaurants, other eating places or consumers for human consumption within  
15 this state.

16 D. The report shall be accompanied by check or money order covering  
17 the inspection fee total of a value equal to the inspection fee in force at  
18 that time on all eggs or egg products shown on such report within thirty days  
19 following the close of quarterly report periods.

20 E. The records shall be retained for a period of one year and shall be  
21 open at all times to the inspection of the department.

22 F. Notwithstanding the requirements of this section, twenty-five cases  
23 per year of nest run eggs as provided in section 3-715 may be sold by any  
24 person to retailers or consumers without being subject to the report and  
25 inspection fee as provided by this section.

26 G. In addition to the inspection fees prescribed by this section, a  
27 penalty of ten per cent shall be added for the delinquent filing of any  
28 report or the delinquent payment of any inspection fee, and if the report and  
29 payment are not made within ten days after notification of delinquency, the  
30 penalty shall be twenty-five per cent of the inspection fee. Persons filing  
31 a false report shall be penalized fifty per cent of the amount due for  
32 inspection fees. The penalties prescribed by this section shall be  
33 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the state egg  
34 inspection TRUST fund.

35 H. Such inspection fees and penalties shall be collected by civil  
36 action filed by the county attorney.

37 Sec. 35. Section 3-717, Arizona Revised Statutes, is amended to read:  
38 3-717. State egg inspection trust fund

39 A. All fees provided by this article shall be paid to the department  
40 ~~which~~ THAT shall issue a receipt for such fees. ~~It shall report to the~~  
41 ~~department of administration the total amount received from all sources and~~  
42 THE DEPARTMENT shall deposit, ~~pursuant to sections 35-146 and 35-147,~~ the  
43 FULL amount in a special fund known as the state egg inspection TRUST fund.  
44 THE TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING,

1 CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM ESTABLISHED BY THIS  
2 ARTICLE.

3 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE  
4 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
5 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
6 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
7 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
8 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
9 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY pursuant to ~~section~~  
10 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be  
11 credited to the TRUST fund.

12 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
13 ESTABLISHED BY THIS ARTICLE. THE TRUST FUND SHALL BE USED EXCLUSIVELY FOR  
14 THE PURPOSES OF THIS ARTICLE ON THE ORDER OF THE DIRECTOR.

15 D. Monies deposited in the state egg inspection TRUST fund ~~+~~  
16 ~~1. Shall be subject to the provisions of section 35-143.01.~~  
17 ~~2.~~ are exempt from the provisions of section 35-190 relating to  
18 lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND  
19 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE  
20 STATE GENERAL FUND.

21 Sec. 36. Section 3-911, Arizona Revised Statutes, is amended to read:  
22 3-911. Conservation and public education

23 A. The department may conserve the highly safeguarded native plants  
24 including the use, and encouraging the use, of all methods and procedures  
25 that are necessary to bring the highly safeguarded native plants to the point  
26 where they are no longer in need of federal protection as endangered or  
27 threatened plants or state protection as highly safeguarded native plants.  
28 These methods and procedures include all activities associated with  
29 scientific resource management such as research, census, law enforcement,  
30 habitat protection and maintenance, propagation and transplantation.

31 B. The department shall encourage commercial businesses engaged in  
32 land development or other activities conducted on private land to salvage  
33 protected native plants to the greatest extent feasible.

34 C. The department may produce, and collect reasonable fees for,  
35 seminars, courses, pamphlets and other educational programs and publications  
36 concerning the effect, intent and interpretation of this chapter, the  
37 identification, nature or condition of protected native plants and the  
38 feasibility and techniques for their conservation and salvage for  
39 presentation and dissemination to:

40 1. State agencies and political subdivisions, including state and  
41 local law enforcement agencies and counties or municipalities which have  
42 enacted or consider enacting ordinances preserving protected native plants.

43 2. Real estate and other commercial businesses engaged in land  
44 development and other activities conducted on private land.

45 3. Landowners and the public at large.

1           4. Persons or entities that are convicted of violating this chapter or  
2 rules and ordinances adopted pursuant to this chapter and that are ordered by  
3 the court to attend educational classes or programs as part of their  
4 sentences.

5           D. Notwithstanding section 35-148, subsection A, the director shall  
6 deposit any monies received under this section in the TRUST fund established  
7 ~~under~~ BY section 3-913.

8           Sec. 37. Section 3-913, Arizona Revised Statutes, is amended to read:  
9           3-913. Fiscal provisions; fees; Arizona protected native plant  
10           trust fund

11           A. The department shall collect nonrefundable fees for issuing  
12 permits, tags, seals and receipts under this article, except for scientific  
13 purposes, from landowners moving protected plants from one of their  
14 properties to another, or from the independent owner of residential property  
15 of ten acres or less if no such plants are to be offered for sale.

16           B. The director shall establish the amount of the fee by rule to  
17 reasonably reflect the cost to the department for administering this chapter  
18 or to reflect the value of the service, permit, tag, seal or receipt,  
19 including at least the following amounts:

20           1. For cereus giganteus (saguaro), at least three dollars for each  
21 plant.

22           2. For native plants ~~which~~ THAT the director determines to be useful  
23 for revegetation and ~~which~~ THAT cannot be salvaged economically at a higher  
24 fee, at least twenty-five cents per plant.

25           3. For all other native plants, at least two dollars for each plant.

26           4. For all receipts for live harvest restricted native plants cut or  
27 removed for wood, at least one dollar per cord.

28           5. For a permit for the by-products or fiber of harvest restricted  
29 native plants, at least one dollar per ton.

30           C. The Arizona protected native plant TRUST fund is established FOR  
31 THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE PROGRAM  
32 ESTABLISHED BY THIS CHAPTER. All fees and other monies collected under this  
33 chapter except civil penalties assessed pursuant to section 3-933 or 3-934  
34 shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the TRUST  
35 fund. ~~The monies deposited constitute a separate and permanent fund for use~~  
36 ~~by the director, subject to legislative appropriation, to administer and~~  
37 ~~enforce this chapter.~~ The director shall administer the TRUST fund AS  
38 TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD  
39 IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO  
40 BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE  
41 COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT  
42 PURPOSES. On notice from the director, the state treasurer shall invest and  
43 divest ~~monies in the~~ ANY TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as  
44 provided by ~~section~~ SECTIONS 35-313 AND 35-314.03 and monies earned from  
45 investment shall be credited to the TRUST fund. THE BENEFICIARY OF THE TRUST

1 IS THE PROGRAM ESTABLISHED BY THIS CHAPTER. THE TRUST FUND SHALL BE USED  
2 EXCLUSIVELY FOR THE PURPOSES OF THIS CHAPTER ON THE ORDER OF THE DIRECTOR.  
3 SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END  
4 OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

5 Sec. 38. Section 3-1294, Arizona Revised Statutes, is amended to read:  
6 3-1294. Improperly maintaining a stallion or jack:  
7 classification; seizure and sale; expenses for care

8 A. A person who maintains a stallion or jack with reckless disregard  
9 for the safety or health of other persons or property or livestock of another  
10 is guilty of a class 2 misdemeanor.

11 B. In addition, the appropriate court, on affidavit by the livestock  
12 officer, may issue an order to seize and impound the stallion or jack until  
13 remedial action has been taken by the owner, agent or person in charge of the  
14 stallion or jack. If no remedial action has been taken after twenty days,  
15 the livestock officer shall sell the stallion or jack to the highest bidder  
16 for cash at public auction. Immediately after the sale is made, or after  
17 release to the owner who pays the hauling charges and expenses of feeding and  
18 caring for the livestock, the livestock officer shall remit the proceeds to  
19 the agency together with an itemized statement of the expense of the seizure  
20 and sale, which shall be paid as other claims. The amount received by the  
21 agency shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the  
22 livestock custody TRUST fund established by section 3-1377 and retained until  
23 final determination by the court of all actions arising from the seizure of  
24 the stallion or jack.

25 Sec. 39. Section 3-1350, Arizona Revised Statutes, is amended to read:  
26 3-1350. Registry of equine rescue facilities; fees

27 A. The department shall establish and maintain a registry of equine  
28 rescue facilities and a public list of registered equine rescue facilities at  
29 department offices and on the department's official website.

30 B. To be registered under this section an equine rescue facility must:

- 31 1. Be incorporated as a nonprofit corporation in this state.
- 32 2. Meet minimum standards prescribed by the department for:
  - 33 (a) The physical condition of the facility.
  - 34 (b) Equine care and treatment at the facility.

35 C. The term of registration is one year from the initial date of  
36 registration, renewable annually.

37 D. For initial registration or annual renewal of registration, a  
38 person representing the facility must file with the department:

39 1. A letter from a licensed veterinarian, dated within fifteen days of  
40 filing, certifying that the facility meets the standards prescribed by the  
41 department for the physical condition of the facility and for the care of  
42 equines at the facility.

43 2. Documents demonstrating the facility's current status as a  
44 nonprofit corporation in good standing in this state.

1 E. The registry shall include the documents filed for registration or  
2 renewal of registration under subsection D of this section or a link to the  
3 facility's website where the documents are displayed.

4 F. The director may:

5 1. Assess and collect fees for registering and renewing the  
6 registration of equine rescue facilities under this section. REVENUES FROM  
7 THE FEES SHALL BE DEPOSITED IN THE LIVESTOCK CUSTODY TRUST FUND ESTABLISHED  
8 BY SECTION 3-1377.

9 2. Adopt rules to implement this section.

10 Sec. 40. Section 3-1372, Arizona Revised Statutes, is amended to read:

11 3-1372. Keeping livestock following seizure; expenses; use of  
12 livestock in criminal prosecution; sale of forfeited  
13 livestock; nonliability of state

14 A. A livestock officer who has seized livestock, as provided by this  
15 article, shall safely keep and care for it while it is under the department's  
16 custody and control, during which time any person may inspect the livestock.

17 B. The expense of seizing, feeding and caring for livestock shall be  
18 paid from any fund available to the division for that purpose. The division  
19 shall recover its expenses as provided by this article.

20 C. At any time before the hearing on the ownership of the livestock,  
21 the county attorney of the county in which the livestock is seized may take  
22 charge of and keep the livestock at the expense of the state when the  
23 livestock is of evidentiary value in any criminal prosecution arising from  
24 the seizure.

25 D. If livestock is forfeited to this state and ordered to be sold, as  
26 provided by this article, the department shall cause notice to be posted in  
27 three public places in the precinct where the livestock is held stating that  
28 the livestock will be sold at public auction for cash to the highest bidder.  
29 The notice shall be posted for at least five days before the sale. The  
30 notice shall state the location where the livestock will be sold. Proceeds  
31 from the sale shall be transmitted to the department to be deposited in the  
32 livestock custody TRUST fund established by section 3-1377, and ~~upon~~ ON final  
33 determination of all actions arising from the seizure of the livestock the  
34 department shall pay the proceeds, less the hauling charges and expense of  
35 feeding and caring for such livestock, to the persons entitled thereto under  
36 the judgment of the court.

37 E. The director may contract with any person to handle, feed and care  
38 for livestock taken into custody under this section. This state is not  
39 liable for the injury or death of any person or livestock or damage to  
40 property due to performance of the contract.

41 Sec. 41. Section 3-1377, Arizona Revised Statutes, is amended to read:

42 3-1377. Sale of seized stock; disposition of proceeds;  
43 livestock custody trust fund

44 A. Livestock officers shall execute an order of sale made pursuant to  
45 this article and deliver a bill of sale to the purchaser, describing the

1 livestock sold and the amount it sold for, and forward to the division a  
2 duplicate of the bill of sale. ~~Upon~~ ON delivery of the bill of sale, title  
3 to the livestock shall pass to the purchaser.

4 B. Immediately after the sale is made, or after release to the owner  
5 who pays the hauling charges and expenses of feed and care of such livestock,  
6 livestock officers shall remit the proceeds of the sale to the department,  
7 together with an itemized statement of the expense of the seizure and sale,  
8 which shall be paid as other claims.

9 C. The amount received by the department pursuant to this section and  
10 sections 3-1294, ~~3-1350~~, 3-1372, 3-1402, 3-1403 and 3-1721 shall be  
11 deposited, ~~pursuant to sections 35-146 and 35-147~~, in a special fund  
12 designated the livestock custody TRUST fund, WHICH IS ESTABLISHED FOR THE  
13 EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL  
14 PROGRAM ESTABLISHED BY THIS CHAPTER. THE DIRECTOR SHALL ADMINISTER THE FUND  
15 AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND  
16 HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE  
17 CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL  
18 NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR  
19 INVESTMENT PURPOSES. On notice from the ~~department~~ DIRECTOR, the state  
20 treasurer shall invest and divest ~~monies in the~~ ANY TRUST fund MONIES  
21 DEPOSITED IN THE STATE TREASURY as provided by ~~section~~ SECTIONS 35-313 AND  
22 35-314.03, and monies earned from investment shall be credited to the TRUST  
23 fund. THE BENEFICIARIES OF THE TRUST ARE THE AGRICULTURAL PROGRAMS  
24 ESTABLISHED BY THIS CHAPTER. THE TRUST FUND SHALL BE USED EXCLUSIVELY FOR  
25 THE PURPOSES OF THIS CHAPTER ON THE ORDER OF THE DIRECTOR. The TRUST fund is  
26 exempt from the provisions of section 35-190 relating to lapsing of  
27 appropriations. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED  
28 BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL  
29 FUND.

30 ~~D. The livestock custody fund is subject to legislative appropriation~~  
31 ~~for use by the department for the enforcement of any of the provisions of~~  
32 ~~this title.~~

33 Sec. 42. Section 3-1402, Arizona Revised Statutes, is amended to read:  
34 3-1402. Holding and sale of stray animals; repossession before  
35 and after sale; nonliability of state

36 A. Any person who finds a stray animal may attempt to locate and, if  
37 located, notify the owner where the animal may be found. If the owner is  
38 unknown or cannot be located, or the person elects not to locate or notify  
39 the owner, the person shall notify the department and the department shall  
40 follow procedures pursuant to this section.

41 B. A livestock officer or inspector who finds or is notified of a  
42 stray animal shall attempt to locate the owner and, if located, notify the  
43 owner where the animal may be found. If the owner does not take immediate  
44 possession of the animal, or if the owner or claimant is unknown or cannot be  
45 located, the livestock officer or inspector shall hold the stray animal for

1 at least seven days, but shall hold the stray animal up to fourteen days at  
2 the request of any person or organization, and sell it at public auction to  
3 the highest bidder for cash, after giving at least five days' notice of the  
4 sale.

5 C. The department shall cause notice to be posted in three public  
6 places in the justice precinct where the stray animal is held stating:

7 1. That the stray animal will be sold at public auction for cash to  
8 the highest bidder.

9 2. The location where the stray animal will be held and the location  
10 where the animal will be sold.

11 D. The owner of a stray animal may take possession of the animal at  
12 any time prior to sale by proving ownership and paying the inspection fee and  
13 all expenses incurred in keeping and caring for the animal.

14 E. If the owner of the stray does not claim the animal before the day  
15 of sale, or if the owner is unknown or cannot be located, the livestock  
16 officer or inspector shall sell the animal pursuant to the notice, and shall  
17 deliver an invoice of sale or a livestock inspection certificate to the  
18 purchaser. The owner of an animal sold may take possession of it at any time  
19 before the purchaser sells it by paying to the purchaser the purchase price  
20 paid at the sale, together with the expense of keeping and caring for the  
21 animal from the date of sale to the time the owner takes possession of the  
22 animal.

23 F. Livestock that is received at auction markets without proper  
24 documentation but with no evidence of criminal intent by the shipper may be  
25 sold, but the director shall impound the proceeds of the sale in the  
26 livestock custody TRUST fund established by section 3-1377. On presentation  
27 of proper documentation of ownership, the director shall pay the proceeds,  
28 less any charges incurred, to the person who is entitled to the proceeds.

29 G. The director may contract with any person to handle, feed and care  
30 for stray animals taken into custody under this section. This state is not  
31 liable for the injury or death of any person or stray animal or damage to  
32 property due to performance of the contract.

33 Sec. 43. Section 3-1403, Arizona Revised Statutes, is amended to read:

34 3-1403. Report by livestock officer or inspector; preliminary  
35 disposition of proceeds of sale

36 A. ~~Upon~~ ON making the sale as provided by section 3-1402, the  
37 livestock officer or inspector shall notify the division of the name of the  
38 purchaser, the time and place of sale, the amount for which the animal was  
39 sold and a description of the animal showing the marks and brands, if any, or  
40 other identifying marks and shall pay to the department the net proceeds  
41 realized at the sale.

42 B. The department shall place the amount realized from the sale of  
43 stray animals in the livestock custody TRUST fund established by section  
44 3-1377.

1           Sec. 44. Section 3-1721, Arizona Revised Statutes, is amended to read:  
2           3-1721. Petition of seizure; notice of seizure; lien for  
3                 expenses; forced sale; disposition of proceeds;  
4                 nonliability of state; neglect or cruel treatment of  
5                 equine; civil penalty; legal representation

6           A. Any person or peace officer who believes that an equine is in poor  
7 physical condition because of neglect or cruel treatment may petition ~~upon~~ ON  
8 affidavit a justice of the peace of the precinct or a city magistrate of the  
9 city in which the equine is found for an order authorizing the department to  
10 take possession of and provide care for the equine for a fifteen-day period.  
11 The order shall not be issued unless the affidavit provides that the  
12 livestock custody TRUST fund established by section 3-1377 has a balance that  
13 permits the department to provide such care or that the department can  
14 demonstrate that the expenses have been contracted for pursuant to subsection  
15 E of this section. The clerk of the court or justice of the peace, as the  
16 case may be, after filing and docketing the petition, shall enter a brief  
17 statement of the petition on the docket and set a time for a hearing that is  
18 not less than five and not more than fifteen days after the petition is  
19 filed. The order shall state the time and place of the hearing.

20           B. On receiving the order the department shall take possession of the  
21 equine. The department shall serve the order on the owner of the equine, if  
22 known, at least twenty-four hours before the hearing, either by personal  
23 service on the owner or by leaving a copy of the order with a person of  
24 suitable discretion at the owner's residence or place of business. If the  
25 owner is not known, the department shall give notice by posting a copy of the  
26 order on the day of the seizure in a conspicuous place at the location where  
27 the equine was seized and in at least two public places in the county where  
28 the equine was seized. The order shall be served by a livestock officer,  
29 constable or sheriff of the county.

30           C. If, at the hearing, it is determined that the equine at the time of  
31 taking possession was not in poor physical condition because of neglect or  
32 cruel treatment, the owner may immediately reclaim the equine and shall not  
33 be liable for payment of any expense incurred in the handling, feeding and  
34 care of the equine. Unless malice is proved, no action taken by an employee  
35 of the department or by a peace officer pursuant to this article shall be  
36 subject to civil or criminal liability.

37           D. ~~Upon~~ ON failure of the owner to be awarded immediate, expense-free  
38 possession of the equine pursuant to subsection C of this section, the  
39 department shall either sell the equine at public auction or, if the equine's  
40 condition makes its sale impractical, dispose of the equine in the most  
41 humane manner possible. The department shall deposit, ~~pursuant to sections~~  
42 ~~35-146 and 35-147~~, the proceeds of the sale in the livestock custody TRUST  
43 fund established by section 3-1377 for distribution in the following  
44 priority:

1           1. The department shall be reimbursed for auction, handling, feeding  
2 and caring expenses.

3           2. Any monies derived from the sale in excess of the expenses to be  
4 paid pursuant to paragraph 1 shall be paid to the owner of the equine. After  
5 thirty days if the owner has not claimed the money, this money shall revert  
6 to the livestock custody TRUST fund established by section 3-1377.

7           E. The director may contract with any person or group to handle, feed  
8 and care for any equine taken into custody pursuant to this section. The  
9 state shall not be liable for injury or death of any person or equine or  
10 damage to property caused by the performance of the contract.

11           F. Notwithstanding any provision of this article to the contrary, the  
12 county attorney of the county in which the equine was seized ~~may~~, at any time  
13 prior to the expiration of fifteen days after the seizure of the equine, MAY  
14 take charge of and keep the equine at the expense of the county when the  
15 county attorney considers it to be of evidentiary value in any criminal  
16 prosecution relating to the condition of the equine.

17           G. In addition to violating section 13-2910, a person who subjects an  
18 equine to neglect or cruel treatment is subject to a civil penalty of not  
19 more than seven hundred fifty dollars for each violation. All civil  
20 penalties assessed pursuant to this subsection shall be deposited, pursuant  
21 to sections 35-146 and 35-147, in the state general fund.

22           H. The county attorney of the county, or the city attorney of the  
23 city, in which the livestock is seized may represent the livestock officer  
24 and the interests of this state in proceedings under this section.

25           I. ~~Upon ON receipt the department shall deposit, pursuant to sections~~  
26 ~~35-146 and 35-147,~~ all monies, except civil penalties, collected pursuant to  
27 this section or received as a money donation from any public or private  
28 group, society, association or individual in the livestock custody TRUST fund  
29 established by section 3-1377. The monies in the fund shall be used to  
30 reimburse the department for expenses incurred in the handling, feeding, care  
31 and auctioning of equines seized pursuant to this section.

32           Sec. 45. Section 3-2602, Arizona Revised Statutes, is amended to read:  
33 3-2602. Administration and enforcement

34           A. In addition to other duties imposed by law, the associate director  
35 of the division shall administer and enforce the provisions of this article  
36 under the supervision of the director.

37           B. The salaries and expenses of travel and subsistence for employees  
38 who administer and enforce this article shall be paid from the commercial  
39 feed TRUST fund.

40           Sec. 46. Section 3-2604, Arizona Revised Statutes, is amended to read:  
41 3-2604. Publications; membership in professional organizations

42           A. The department may publish at such times and in such form as the  
43 director deems proper:

44           1. Information concerning the sale of commercial feeds and  
45 customer-formula feeds together with such data on their production and use as

1 he may consider advisable, but the information concerning production and use  
2 of commercial feeds and customer-formula feeds shall not disclose the  
3 operations of any one person.

4 2. Reports of chemists' findings based on official samples of each  
5 brand of commercial feed and customer-formula feed sampled and analyzed as  
6 compared to the guaranteed chemical analysis for each such feed.

7 B. The director may authorize employees of the department to:

8 1. Join and subscribe to any state, district, regional or national  
9 organization or publications relating to sale and distribution of or control  
10 of sale and distribution of commercial feeds.

11 2. Attend state, district, regional and national meetings relating to  
12 sale and distribution or control of sale and distribution of commercial  
13 feeds.

14 C. Expenses authorized by this section shall be paid from and limited  
15 by the commercial feed TRUST fund.

16 Sec. 47. Section 3-2607, Arizona Revised Statutes, is amended to read:  
17 3-2607. Commercial feed trust fund

18 A. The commercial feed TRUST fund is established FOR THE EXCLUSIVE  
19 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM  
20 ESTABLISHED BY THIS ARTICLE. All monies collected under the provisions of  
21 this article shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in  
22 the TRUST fund.

23 B. The director shall administer the fund AS TRUSTEE. THE STATE  
24 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
25 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
26 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
27 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
28 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
29 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~  
30 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be  
31 credited to the TRUST fund.

32 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURE PROGRAM ESTABLISHED  
33 BY THIS ARTICLE. The TRUST fund shall be used solely for the ~~purpose of~~  
34 ~~administering the provisions~~ PURPOSES of this article ~~upon~~ ON the order of  
35 the director.

36 D. The commercial feed TRUST fund is exempt from the provisions of  
37 section 35-190 relating to lapsing appropriations. SURPLUS MONIES, INCLUDING  
38 ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT  
39 REVERT TO THE STATE GENERAL FUND.

40 Sec. 48. Section 3-2913, Arizona Revised Statutes, is amended to read:  
41 3-2913. Aquaculture trust fund

42 A. The aquaculture TRUST fund is established ~~consisting~~ FOR THE  
43 EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL  
44 PROGRAM ESTABLISHED BY THIS ARTICLE. THE TRUST FUND CONSISTS of revenues  
45 received from fees and all other sources under this article except civil

1 penalties under section 3-2912. The monies collected constitute a separate  
2 and permanent fund for the use of the director in administering and enforcing  
3 this article.

4 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE  
5 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES  
6 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS  
7 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER  
8 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from  
9 the director, the state treasurer shall invest and divest ~~monies in the ANY~~  
10 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~  
11 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be  
12 credited to the TRUST fund.

13 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM  
14 ESTABLISHED BY THIS ARTICLE.

15 D. Any monies remaining unexpended in the fund on June 30 each year  
16 shall be carried forward to the following year and DO NOT REVERT TO THE STATE  
17 GENERAL FUND. The director shall take that amount into account in computing  
18 and setting fees under this article for that year.

19 Sec. 49. Section 5-113, Arizona Revised Statutes, is amended to read:

20 5-113. Disposition of revenues and monies; funds; committee

21 A. All revenues derived from permittees, permits and licenses as  
22 provided by this article shall be deposited, pursuant to sections 35-146 and  
23 35-147, in the state general fund.

24 B. The Arizona county fairs racing betterment fund is established  
25 under the jurisdiction of the department. The department shall distribute  
26 monies from the fund to the county fair association or county fair racing  
27 association of each county conducting a county fair racing meeting in such  
28 proportion as the department deems necessary for the promotion and betterment  
29 of county fair racing meetings. All expenditures from the fund shall be made  
30 ~~upon~~ ON claims approved by the department. In order to be eligible for  
31 distributions from the fund, a county fair association must provide the  
32 department with an annual certification in the form required by the  
33 department supporting expenditures made from the fund. Balances remaining in  
34 the fund at the end of a fiscal year do not revert to the state general fund.

35 C. The county fairs livestock and agriculture promotion fund is  
36 established under the control of the governor and shall be used for the  
37 purpose of promoting the livestock and agricultural resources of the state  
38 and for the purpose of conducting an annual Arizona national livestock fair  
39 by the Arizona exposition and state fair board to further promote livestock  
40 resources. The direct expenses less receipts of the livestock fair shall be  
41 paid from this fund, but such payment shall not exceed thirty per cent of the  
42 receipts of the fund for the preceding fiscal year. Balances remaining in  
43 the fund at the end of a fiscal year do not revert to the state general fund.  
44 All expenditures from the fund shall be made upon claims approved by the  
45 governor, as recommended by the livestock and agriculture committee, for the

1 promotion and betterment of the livestock and agricultural resources of this  
2 state. The livestock and agriculture committee is established and shall be  
3 composed of the following members, at least three of whom are from counties  
4 that have a population of less than five hundred thousand persons, appointed  
5 by the governor:

- 6 1. Three members representing county fairs.
- 7 2. One member representing Arizona livestock fairs.
- 8 3. One member representing the university of Arizona college of  
9 agriculture.
- 10 4. One member representing the livestock industry.
- 11 5. One member representing the farming industry.
- 12 6. One member representing the governor's office.
- 13 7. One member representing the Arizona state fair conducted by the  
14 Arizona exposition and state fair board.

15 8. One member representing the general public.  
16 D. The governor shall appoint a chairman from the members. Terms of  
17 members shall be four years.

18 E. Members of the committee are not eligible to receive compensation  
19 but are eligible to receive reimbursement for expenses pursuant to title 38,  
20 chapter 4, article 2.

21 F. The Arizona breeders' award fund is established under the  
22 jurisdiction of the department. The department shall distribute monies from  
23 the fund to the breeder, or the breeder's heirs, devisees or successors, of  
24 every winning horse or greyhound foaled or whelped in this state, as defined  
25 by section 5-114, in a manner and in an amount established by rules of the  
26 commission to protect the integrity of the racing industry and promote,  
27 improve and advance the quality of race horse and greyhound breeding within  
28 this state. The department may contract with a breeders' association to  
29 provide data, statistics and other information necessary to enable the  
30 department to carry out the purposes of this subsection. Persons who are not  
31 eligible to be licensed under section 5-107.01 or persons who have been  
32 refused licenses under section 5-108 are not eligible to participate in the  
33 Arizona greyhound breeders' award fund. Balances remaining in the fund at  
34 the end of a fiscal year do not revert to the state general fund. For the  
35 purposes of this subsection, "breeder" means the owner or lessee of the dam  
36 of the animal at the time the animal was foaled or whelped.

37 G. The Arizona stallion award fund is established under the  
38 jurisdiction of the department to promote, improve and advance the quality of  
39 stallions in this state. The department shall distribute monies from the  
40 fund to the owner or lessee, or the owner's or lessee's heirs, devisees or  
41 successors, of every Arizona stallion whose certified Arizona bred offspring,  
42 as prescribed in section 5-114, finishes first, second or third in an  
43 eligible race in this state. The department may contract with a breeders'  
44 association to provide data, statistics and other information necessary to  
45 enable the department to carry out the purposes of this subsection. Balances

1 remaining in the fund at the end of a fiscal year do not revert to the state  
2 general fund. The commission shall adopt rules pursuant to title 41, chapter  
3 6 to carry out the purposes of this subsection. The rules shall prescribe at  
4 a minimum:

5 1. The manner and procedure for distribution from the fund, including  
6 eligibility requirements for owners and lessees.

7 2. Subject to availability of monies in the fund, the amount to be  
8 awarded.

9 3. The requirements for a stallion registered with the jockey club,  
10 Lexington, Kentucky or with the American quarter horse association, Amarillo,  
11 Texas to be certified as an Arizona stallion.

12 4. The types and requirements of races for which an award may be made.

13 H. The greyhound and retired racehorse adoption fund is established.  
14 The department shall administer the fund and maintain separate accounts for  
15 greyhound adoptions and retired racehorse adoptions. All revenues derived  
16 from license fees collected from dog breeders, racing kennels and other  
17 operations pursuant to section 5-104, subsection F, paragraphs 7, 8 and 9  
18 shall be deposited, pursuant to sections 35-146 and 35-147, in the greyhound  
19 adoption account of the fund. All revenues derived from retired racehorse  
20 adoption surcharges collected pursuant to section 5-104, subsection G shall  
21 be deposited, pursuant to sections 35-146 and 35-147, in the retired  
22 racehorse adoption account of the fund. The department shall distribute  
23 monies from the fund to provide financial assistance to nonprofit enterprises  
24 approved by the commission to promote the adoption of former racing  
25 greyhounds as domestic pets and to promote the adoption of retired racehorses  
26 pursuant to section 5-104, subsection G in a manner and in an amount  
27 established by rules of the commission. Balances remaining in the fund at  
28 the end of a fiscal year do not revert to the state general fund.

29 I. The county fair racing fund is established. The department shall  
30 administer the fund. Monies in the fund are continuously appropriated. The  
31 department shall use fund monies for the administration of county fair  
32 racing. Any monies remaining unexpended in the fund at the end of the fiscal  
33 year in excess of seventy-five thousand dollars shall revert to the state  
34 general fund.

35 J. The agricultural consulting and training TRUST fund is established  
36 FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING. ~~Monies~~  
37 ~~in the fund are continuously appropriated. The Arizona department of~~  
38 ~~agriculture shall use monies in the fund for~~ the agricultural consulting and  
39 training program established by section 3-109.01. The DIRECTOR OF THE  
40 Arizona department of agriculture shall administer the TRUST fund AS TRUSTEE.  
41 THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST  
42 ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST  
43 MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH  
44 ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON  
45 NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY

1 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS  
2 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO  
3 THE TRUST FUND. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL CONSULTING  
4 AND TRAINING PROGRAM ESTABLISHED BY SECTION 3-109.01. SURPLUS MONIES,  
5 INCLUDING balances remaining in the TRUST fund at the end of a fiscal year do  
6 not revert to the state general fund.