

REFERENCE TITLE: fuel tax repeal; sales tax

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

# SB 1181

Introduced by  
Senator Harper

## AN ACT

AMENDING SECTIONS 28-101, 28-401, 28-481, 28-1176, 28-2232 AND 28-5474, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 28, CHAPTER 16, ARTICLE 1, ARIZONA REVISED STATUTES, TO "AVIATION FUEL TAX COLLECTION"; AMENDING SECTIONS 28-5601, 28-5603 AND 28-5604, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5605, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5606, 28-5607, 28-5608, 28-5609 AND 28-5610, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5611, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5612 AND 28-5613, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5614, 28-5615, 28-5616 AND 28-5617, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5618, 28-5619, 28-5620 AND 28-5622, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5623, ARIZONA REVISED STATUTES; AMENDING SECTION 28-5624, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5625, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5626, 28-5633, 28-5634, 28-5635, 28-5636, 28-5637, 28-5638 AND 28-5639, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5640, ARIZONA REVISED STATUTES; AMENDING SECTION 28-5644, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5645, 28-5646, 28-5647, 28-5648 AND 28-5649, ARIZONA REVISED STATUTES; REPEALING TITLE 28, CHAPTER 16, ARTICLE 2, ARIZONA REVISED STATUTES; AMENDING SECTION 28-5925, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5926 AND 28-5927, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-6001, 28-6006, 28-6501, 28-6540, 28-6547, 42-5061, 42-5071, 42-5151 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6011; AMENDING TITLE 42, CHAPTER 6, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6103.01; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 28-101, Arizona Revised Statutes, is amended to  
3 read:  
4 28-101. Definitions  
5 In this title, unless the context otherwise requires:  
6 1. "Alcohol" means any substance containing any form of alcohol,  
7 including ethanol, methanol, propynol and isopropynol.  
8 2. "Alcohol concentration" if expressed as a percentage means either:  
9 (a) The number of grams of alcohol per one hundred milliliters of  
10 blood.  
11 (b) The number of grams of alcohol per two hundred ten liters of  
12 breath.  
13 3. "All-terrain vehicle" means a motor vehicle that satisfies all of  
14 the following:  
15 (a) Is designed primarily for recreational nonhighway all-terrain  
16 travel.  
17 (b) Is fifty or fewer inches in width.  
18 (c) Has an unladen weight of eight hundred pounds or less.  
19 (d) Travels on three or more low pressure tires.  
20 (e) Has a seat to be straddled by the operator and handlebars for  
21 steering control.  
22 (f) Is operated on a public highway.  
23 4. "Authorized emergency vehicle" means any of the following:  
24 (a) A fire department vehicle.  
25 (b) A police vehicle.  
26 (c) An ambulance or emergency vehicle of a municipal department or  
27 public service corporation that is designated or authorized by the department  
28 or a local authority.  
29 (d) Any other ambulance, fire truck or rescue vehicle that is  
30 authorized by the department in its sole discretion and that meets liability  
31 insurance requirements prescribed by the department.  
32 5. "Aviation fuel" means all flammable liquids composed of a mixture  
33 of selected hydrocarbons expressly manufactured and blended for the purpose  
34 of effectively and efficiently operating an internal combustion engine for  
35 use in an aircraft but does not include fuel for jet or turbine powered  
36 aircraft.  
37 6. "Bicycle" means a device, including a racing wheelchair, that is  
38 propelled by human power and on which a person may ride and that has either:  
39 (a) Two tandem wheels, either of which is more than sixteen inches in  
40 diameter.  
41 (b) Three wheels in contact with the ground, any of which is more than  
42 sixteen inches in diameter.  
43 7. "Board" means the transportation board.  
44 8. "Bus" means a motor vehicle designed for carrying sixteen or more  
45 passengers, including the driver.

1           9. "Business district" means the territory contiguous to and including  
2 a highway if there are buildings in use for business or industrial purposes  
3 within any six hundred feet along the highway, including hotels, banks or  
4 office buildings, railroad stations and public buildings that occupy at least  
5 three hundred feet of frontage on one side or three hundred feet collectively  
6 on both sides of the highway.

7           10. "Combination of vehicles" means a truck or truck tractor and  
8 semitrailer and any trailer that it tows but does not include a forklift  
9 designed for the purpose of loading or unloading the truck, trailer or  
10 semitrailer.

11           11. "Controlled substance" means a substance so classified under  
12 section 102(6) of the controlled substances act (21 United States Code  
13 section 802(6)) and includes all substances listed in schedules I through V  
14 of 21 Code of Federal Regulations part 1308.

15           12. "Conviction" means:

16           (a) An unvacated adjudication of guilt or a determination that a  
17 person violated or failed to comply with the law in a court of original  
18 jurisdiction or by an authorized administrative tribunal.

19           (b) An unvacated forfeiture of bail or collateral deposited to secure  
20 the person's appearance in court.

21           (c) A plea of guilty or no contest accepted by the court.

22           (d) The payment of a fine or court costs.

23           13. "County highway" means a public road constructed and maintained by  
24 a county.

25           14. "Dealer" means a person who is engaged in the business of buying,  
26 selling or exchanging motor vehicles, trailers or semitrailers and who has an  
27 established place of business.

28           15. "Department" means the department of transportation acting directly  
29 or through its duly authorized officers and agents.

30           16. "Director" means the director of the department of transportation.

31           17. "Drive" means to operate or be in actual physical control of a  
32 motor vehicle.

33           18. "Driver" means a person who drives or is in actual physical control  
34 of a vehicle.

35           19. "Driver license" means a license that is issued by a state to an  
36 individual and that authorizes the individual to drive a motor vehicle.

37           20. "Electric personal assistive mobility device" means a  
38 self-balancing two nontandem wheeled device with an electric propulsion  
39 system that limits the maximum speed of the device to fifteen miles per hour  
40 or less and that is designed to transport only one person.

41           21. "Farm tractor" means a motor vehicle designed and used primarily as  
42 a farm implement for drawing implements of husbandry.

43           22. "Foreign vehicle" means a motor vehicle, trailer or semitrailer  
44 that is brought into this state other than in the ordinary course of business

1 by or through a manufacturer or dealer and that has not been registered in  
2 this state.

3 23. "Golf cart" means a motor vehicle that has not less than three  
4 wheels in contact with the ground, that has an unladen weight of less than  
5 one thousand eight hundred pounds, that is designed to be and is operated at  
6 not more than twenty-five miles per hour and that is designed to carry not  
7 more than four persons including the driver.

8 24. "Hazardous material" means a material, and its mixtures or  
9 solutions, that the United States department of transportation determines  
10 under 49 Code of Federal Regulations is, or any quantity of a material listed  
11 as a select agent or toxin under 42 Code of Federal Regulations part 73 that  
12 is, capable of posing an unreasonable risk to health, safety and property if  
13 transported in commerce and that is required to be placarded or marked as  
14 required by the department's safety rules prescribed pursuant to chapter 14  
15 of this title.

16 25. "Implement of husbandry" means a vehicle designed primarily for  
17 agricultural purposes and used exclusively in the conduct of agricultural  
18 operations, including an implement or vehicle whether self-propelled or  
19 otherwise that meets all of the following conditions:

20 (a) Is used exclusively for carrying products of farming from one part  
21 of a farm to another part of the same farm or from one farm to another farm.

22 (b) Is used solely for agricultural purposes including the preparation  
23 or harvesting of cotton, alfalfa, grains and other farm crops.

24 (c) Is only incidentally operated or moved on a highway whether as a  
25 trailer or self-propelled unit.

26 26. "Limousine" means a motor vehicle providing prearranged ground  
27 transportation service for an individual passenger, or a group of passengers,  
28 that is arranged in advance or is operated on a regular route or between  
29 specified points and includes ground transportation under a contract or  
30 agreement for services that includes a fixed rate or time and is provided in  
31 a motor vehicle with a seating capacity not exceeding fifteen passengers  
32 including the driver.

33 27. "Livery vehicle" means a motor vehicle that:

34 (a) Has a seating capacity not exceeding fifteen passengers including  
35 the driver.

36 (b) Provides passenger services for a fare determined by a flat rate  
37 or flat hourly rate between geographic zones or within a geographic area.

38 (c) Is available for hire on an exclusive or shared ride basis.

39 (d) May do any of the following:

40 (i) Operate on a regular route or between specified places.

41 (ii) Offer prearranged ground transportation service as defined in  
42 section 28-141.

43 (iii) Offer on demand ground transportation service pursuant to a  
44 contract with a public airport, licensed business entity or organization.

1           28. "Local authority" means any county, municipal or other local board  
2 or body exercising jurisdiction over highways under the constitution and laws  
3 of this state.

4           29. "Manufacturer" means a person engaged in the business of  
5 manufacturing motor vehicles, trailers or semitrailers.

6           30. "Moped" means a bicycle that is equipped with a helper motor if the  
7 vehicle has a maximum piston displacement of fifty cubic centimeters or less,  
8 a brake horsepower of one and one-half or less and a maximum speed of  
9 twenty-five miles per hour or less on a flat surface with less than a one per  
10 cent grade.

11           31. "Motor driven cycle" means a motorcycle, including every motor  
12 scooter, with a motor that produces not more than five horsepower.

13           32. "Motor vehicle":

14           (a) Means either:

15           (i) A self-propelled vehicle.

16           (ii) For the purposes of the laws relating to the imposition of a tax  
17 on motor vehicle fuel, a vehicle that is operated on the highways of this  
18 state and that is propelled by the use of motor vehicle fuel.

19           (b) Does not include a motorized wheelchair, an electric personal  
20 assistive mobility device or a motorized skateboard. For the purposes of this  
21 subdivision:

22           (i) "Motorized skateboard" means a self-propelled device that has a  
23 motor, a deck on which a person may ride and at least two tandem wheels in  
24 contact with the ground.

25           (ii) "Motorized wheelchair" means a self-propelled wheelchair that is  
26 used by a person for mobility.

27           33. "Motor vehicle fuel" includes all products that are commonly or  
28 commercially known or sold as gasoline, including casinghead gasoline,  
29 natural gasoline and all flammable liquids, and that are composed of a  
30 mixture of selected hydrocarbons expressly manufactured and blended for the  
31 purpose of effectively and efficiently operating internal combustion engines.  
32 Motor vehicle fuel does not include inflammable liquids that are specifically  
33 manufactured for racing motor vehicles and that are distributed for and used  
34 by racing motor vehicles at a racetrack, use fuel ~~as defined in section~~  
35 ~~28-5601~~, aviation fuel, fuel for jet or turbine powered aircraft or the  
36 mixture created at the interface of two different substances being  
37 transported through a pipeline, commonly known as transmix.

38           34. "Motorcycle" means a motor vehicle that has a seat or saddle for  
39 the use of the rider and that is designed to travel on not more than three  
40 wheels in contact with the ground but excluding a tractor and a moped.

41           35. "Neighborhood electric vehicle" means a self-propelled electrically  
42 powered motor vehicle to which all of the following apply:

43           (a) The vehicle is emission free.

44           (b) The vehicle has at least four wheels in contact with the ground.

1 (c) The vehicle complies with the definition and standards for low  
2 speed vehicles set forth in federal motor vehicle safety standard 500 and 49  
3 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

4 36. "Nonresident" means a person who is not a resident of this state as  
5 defined in section 28-2001.

6 37. "Off-road recreational motor vehicle" means a motor vehicle that is  
7 designed primarily for recreational nonhighway all-terrain travel and that is  
8 not operated on a public highway. Off-road recreational motor vehicle does  
9 not mean a motor vehicle used for construction, building trade, mining or  
10 agricultural purposes.

11 38. "Operator" means a person who drives a motor vehicle on a highway,  
12 who is in actual physical control of a motor vehicle on a highway or who is  
13 exercising control over or steering a vehicle being towed by a motor vehicle.

14 39. "Owner" means:

15 (a) A person who holds the legal title of a vehicle.

16 (b) If a vehicle is the subject of an agreement for the conditional  
17 sale or lease with the right of purchase on performance of the conditions  
18 stated in the agreement and with an immediate right of possession vested in  
19 the conditional vendee or lessee, the conditional vendee or lessee.

20 (c) If a mortgagor of a vehicle is entitled to possession of the  
21 vehicle, the mortgagor.

22 40. "Pedestrian" means any person afoot. A person who uses an electric  
23 personal assistive mobility device or a manual or motorized wheelchair is  
24 considered a pedestrian unless the manual wheelchair qualifies as a bicycle.  
25 For the purposes of this paragraph, "motorized wheelchair" means a  
26 self-propelled wheelchair that is used by a person for mobility.

27 41. "Power sweeper" means an implement, with or without motive power,  
28 that is only incidentally operated or moved on a street or highway and that  
29 is designed for the removal of debris, dirt, gravel, litter or sand whether  
30 by broom, vacuum or regenerative air system from asphaltic concrete or cement  
31 concrete surfaces, including parking lots, highways, streets and warehouses,  
32 and a vehicle on which the implement is permanently mounted.

33 42. "Public transit" means the transportation of passengers on  
34 scheduled routes by means of a conveyance on an individual passenger  
35 fare-paying basis excluding transportation by a sight-seeing bus, school bus  
36 or taxi or a vehicle not operated on a scheduled route basis.

37 43. "Reconstructed vehicle" means a vehicle that has been assembled or  
38 constructed largely by means of essential parts, new or used, derived from  
39 vehicles or makes of vehicles of various names, models and types or that, if  
40 originally otherwise constructed, has been materially altered by the removal  
41 of essential parts or by the addition or substitution of essential parts, new  
42 or used, derived from other vehicles or makes of vehicles. For the purposes  
43 of this paragraph, "essential parts" means integral and body parts, the  
44 removal, alteration or substitution of which will tend to conceal the  
45 identity or substantially alter the appearance of the vehicle.

1           44. "Residence district" means the territory contiguous to and  
2 including a highway not comprising a business district if the property on the  
3 highway for a distance of three hundred feet or more is in the main improved  
4 with residences or residences and buildings in use for business.

5           45. "Right-of-way" when used within the context of the regulation of  
6 the movement of traffic on a highway means the privilege of the immediate use  
7 of the highway. Right-of-way when used within the context of the real  
8 property on which transportation facilities and appurtenances to the  
9 facilities are constructed or maintained means the lands or interest in lands  
10 within the right-of-way boundaries.

11           46. "School bus" means a motor vehicle that is designed for carrying  
12 more than ten passengers and that is either:

13           (a) Owned by any public or governmental agency or other institution  
14 and operated for the transportation of children to or from home or school on  
15 a regularly scheduled basis.

16           (b) Privately owned and operated for compensation for the  
17 transportation of children to or from home or school on a regularly scheduled  
18 basis.

19           47. "Semitrailer" means a vehicle that is with or without motive power,  
20 other than a pole trailer, that is designed for carrying persons or property  
21 and for being drawn by a motor vehicle and that is constructed so that some  
22 part of its weight and that of its load rests on or is carried by another  
23 vehicle. For the purposes of this paragraph, "pole trailer" has the same  
24 meaning prescribed in section 28-601.

25           48. "State" means a state of the United States and the District of  
26 Columbia.

27           49. "State highway" means a state route or portion of a state route  
28 that is accepted and designated by the board as a state highway and that is  
29 maintained by the state.

30           50. "State route" means a right-of-way whether actually used as a  
31 highway or not that is designated by the board as a location for the  
32 construction of a state highway.

33           51. "Street" or "highway" means the entire width between the boundary  
34 lines of every way if a part of the way is open to the use of the public for  
35 purposes of vehicular travel.

36           52. "Taxi" means a motor vehicle that has a seating capacity not  
37 exceeding fifteen passengers, including the driver, that is registered as a  
38 taxi in this state or any other state, that provides passenger services and  
39 that:

40           (a) Does not operate on a regular route or between specified places.

41           (b) Offers local transportation for a fare determined primarily on the  
42 basis of the distance traveled.

43           53. "Trailer" means a vehicle that is with or without motive power,  
44 other than a pole trailer, that is designed for carrying persons or property  
45 and for being drawn by a motor vehicle and that is constructed so that no

1 part of its weight rests on the towing vehicle. A semitrailer equipped with  
2 an auxiliary front axle commonly known as a dolly is deemed to be a trailer.  
3 For the purposes of this paragraph, "pole trailer" has the same meaning  
4 prescribed in section 28-601.

5 54. "Truck" means a motor vehicle designed or used primarily for the  
6 carrying of property other than the effects of the driver or passengers and  
7 includes a motor vehicle to which has been added a box, a platform or other  
8 equipment for such carrying.

9 55. "Truck tractor" means a motor vehicle that is designed and used  
10 primarily for drawing other vehicles and that is not constructed to carry a  
11 load other than a part of the weight of the vehicle and load drawn.

12 56. "Vehicle" means a device in, on or by which a person or property is  
13 or may be transported or drawn on a public highway, excluding devices moved  
14 by human power or used exclusively on stationary rails or tracks.

15 57. "Vehicle transporter" means either:

16 (a) A truck tractor capable of carrying a load and drawing a  
17 semitrailer.

18 (b) A truck tractor with a stinger-steered fifth wheel capable of  
19 carrying a load and drawing a semitrailer or a truck tractor with a dolly  
20 mounted fifth wheel that is securely fastened to the truck tractor at two or  
21 more points and that is capable of carrying a load and drawing a semitrailer.

22 Sec. 2. Section 28-401, Arizona Revised Statutes, is amended to read:  
23 28-401. Intergovernmental agreements

24 A. The department may contract under title 11, chapter 7, article 3  
25 with a state public agency in this state or any other state if the general  
26 welfare of this state will be promoted and protected and if not in conflict  
27 with any other law.

28 B. The director shall enter into agreements on behalf of this state  
29 with political subdivisions or Indian tribes for the improvement or  
30 maintenance of state routes or for the joint improvement or maintenance of  
31 state routes.

32 C. The department may enter into an intergovernmental agreement  
33 pursuant to title 11, chapter 7, article 3 with a county with a population of  
34 more than two million persons for the construction, design, acquisition and  
35 attendant acquisition costs of a county highway bridge to provide direct  
36 access to commercial, residential and recreational facilities. The agreement  
37 shall:

38 1. Contain the commitment of the county to pay other monies for the  
39 purpose of financing the bridge.

40 2. State the responsibilities of each party with regard to planning,  
41 designing, constructing, owning and maintaining the bridge.

42 3. Provide that payment for the costs of the bridge shall be made from  
43 contributions from the parties to the agreement and other contributors before  
44 the use of state transaction privilege tax distributions.

1 D. The department may enter into an intergovernmental agreement  
2 pursuant to title 11, chapter 7, article 3 with a county with a population of  
3 more than two million persons for the design, reconstruction and improvement  
4 costs of a county highway approaching and traversing a bridge constructed  
5 pursuant to subsection C of this section. The agreement shall:

6 1. Contain the commitment of the county to pay other monies for the  
7 purpose of financing the highway improvements.

8 2. State the responsibilities of each party with regard to planning,  
9 designing, constructing, owning and maintaining the highway.

10 3. Provide that payment for the costs shall be made from contributions  
11 from the parties to the agreement and other contributors before the use of  
12 state transaction privilege tax distributions.

13 4. Provide for reimbursement to the state general fund of the amount  
14 of highway improvement revenues paid to the highway improvement interest fund  
15 or redemption fund under section 28-7656, subsection B on the voluntary  
16 conveyance of a majority ownership interest in a sports entertainment  
17 facility as prescribed by section 42-5032, subsection B.

18 5. Contain the representation of the county that it has the legally  
19 binding assurance of the owner of a sports entertainment facility, as defined  
20 in section 42-5032, subsection E, that the owner will reimburse the county  
21 for any ~~and all~~ expense the county ~~may incur~~ INCURS under ~~subsection D,~~  
22 paragraph 4 of this ~~section~~ SUBSECTION and section 42-5032, subsection B.

23 6. Be submitted to the joint legislative budget committee for its  
24 review before the execution of the agreement.

25 ~~E. The department may enter into agreements with Indian tribes to  
26 provide a method or formula to refund taxes paid on exempt motor fuel  
27 purchases or use pursuant to this title. For the purposes of this  
28 subsection, "motor fuel" has the same meaning prescribed in section 28-5601.~~

29 ~~F.~~ E. The department may enter into an intergovernmental agreement  
30 pursuant to title 11, chapter 7, article 3 that obligates the department to  
31 indemnify and defend a city, town, county, flood control district, irrigation  
32 district or agricultural improvement district or any other political  
33 subdivision or governmental agency against claims of liability for injuries,  
34 losses or damages incurred in any way as a result of the acts or omissions of  
35 the department, including acts, errors, omissions or mistakes of any person  
36 for which the department may be liable, and arising out of the construction,  
37 operation or maintenance of department projects or facilities or use of  
38 department projects or facilities. A city, town, county, flood control  
39 district, irrigation district or agricultural improvement district or any  
40 other political subdivision or governmental agency may enter into an  
41 intergovernmental agreement pursuant to title 11, chapter 7, article 3 that  
42 obligates such an entity to indemnify and defend the department against  
43 claims of liability for injuries, losses or damages incurred in any way as a  
44 result of the acts or omissions of such entity, including acts, errors,  
45 omissions or mistakes of any person for which the entity may be liable, and

1 arising out of the construction, operation or maintenance of projects or  
2 facilities or use of projects or facilities. Any indemnification pursuant to  
3 an intergovernmental agreement must be approved by state risk management in  
4 the department of administration.

5 Sec. 3. Section 28-481, Arizona Revised Statutes, is amended to read:  
6 28-481. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Assignment" means an action taken by the department designating  
9 prime suppliers of motor gasoline to supply unblended gasoline to an eligible  
10 blender to alleviate a shortage.

11 2. "Blender" means a person who blends gasoline with alcohol for  
12 resale and who is required to file fuel manufacturers' quarterly reports for  
13 motor vehicle gasoline with the United States environmental protection agency  
14 pursuant to 42 United States Code sections 7545 and 7601 and 40 Code of  
15 Federal Regulations part 79.

16 3. "Oxygenate" means any oxygen-containing ashless, organic compound,  
17 including aliphatic alcohols and aliphatic ethers, that may be used as a fuel  
18 or as a gasoline blending component.

19 4. "Oxygenated fuel" means a motor fuel blend, whether leaded or  
20 unleaded, that consists primarily of gasoline and a substantial amount of one  
21 or more oxygenates and that has been blended consistent with the provisions  
22 of a waiver issued by the United States environmental protection agency  
23 pursuant to 42 United States Code section 7545(f).

24 5. "Prime supplier" means the distributor that makes the first sale of  
25 motor gasoline ~~and that is responsible for reporting the distribution of~~  
26 ~~motor vehicle fuel pursuant to section 28-5618~~ for ultimate consumption in a  
27 vehicle emissions control area.

28 6. "State set-aside" or "set-aside" means, with respect to a given  
29 prime supplier, the amount of unblended gasoline that is made available from  
30 the total supply of that prime supplier for utilization by the department to  
31 resolve unblended fuel shortages.

32 7. "Unblended gasoline" means gasoline, whether leaded or unleaded,  
33 that is of a composition that is legally and chemically suitable for blending  
34 with oxygenates in order to produce oxygenated fuel containing the per cent  
35 weight of oxygen prescribed by law.

36 8. "Vehicle emissions control area" has the same meaning prescribed in  
37 section 49-541, except that the area does not include a manufacturer's  
38 proving ground that is located in the area. For the purposes of this  
39 paragraph, "manufacturer's proving ground" means a facility whose sole  
40 purpose is to develop complete advanced vehicles for an automotive  
41 manufacturer.



1           6. For the mitigation of damages to land, revegetation and the  
2 prevention and restoration of damages to natural and cultural resources,  
3 including the closure of existing access roads, off-highway vehicle use areas  
4 and off-highway vehicle routes and trails.

5           7. For necessary environmental, historical and cultural clearance or  
6 compliance activities.

7           F. The allocation of the monies in subsection E, paragraphs 3 through  
8 7 of this section and the percentages allocated to each of the purposes  
9 prescribed in subsection E, paragraphs 3 through 7 of this section shall be  
10 based on an off-highway vehicle recreational plan.

11           G. Monies in the off-highway vehicle recreation fund shall not be used  
12 to construct new off-highway vehicle trails or routes on environmentally or  
13 culturally sensitive land unless the appropriate land management agency  
14 determines that certain new trail construction would benefit or protect  
15 cultural or sensitive sites. For the purposes of this subsection,  
16 "environmentally or culturally sensitive land" means areas of lands that are  
17 either:

18           1. Administratively or legislatively designated by the federal  
19 government as any of the following:

20           (a) A national monument.

21           (b) An area of critical environmental concern.

22           (c) A conservation area.

23           (d) An inventoried roadless area.

24           2. Determined by the applicable land management agency to contain  
25 significant natural or cultural resources or values.

26           H. The Arizona state parks board shall examine applications for  
27 eligible projects and determine the amount of funding, if any, for each  
28 project. In determining the amount of monies for eligible projects, the  
29 Arizona state parks board shall give preference to applications for projects  
30 with mitigation efforts and for projects that encompass a large number of  
31 purposes described in subsection E, paragraphs 3 through 7 of this section.

32           I. Beginning September 1, 2011, and on or before September 1 of each  
33 subsequent year, each agency that receives monies from the off-highway  
34 vehicle recreation fund shall submit an off-highway vehicle report to the  
35 president of the senate, the speaker of the house of representatives, the  
36 chairperson of the senate natural resources and rural affairs committee, or  
37 its successor committee, and the chairperson of the house of representatives  
38 natural resources and public safety committee, or its successor committee.  
39 The report shall be made available to the public. The report shall include  
40 information on all of the following if applicable:

41           1. The amount of monies spent or encumbered in the fund during the  
42 preceding fiscal year for the purposes of off-highway vehicle law enforcement  
43 activities.

44           2. The amount of monies spent from the off-highway vehicle recreation  
45 fund during the preceding fiscal year for employee services.

1           3. The number of full-time employees employed in the preceding fiscal  
2 year in connection with off-highway vehicle law enforcement activities.

3           4. The amount of monies spent from the off-highway vehicle recreation  
4 fund during the preceding fiscal year for information and education.

5           5. The number and specific location of verbal warnings, written  
6 warnings and citations given or issued during the preceding fiscal year.

7           6. A specific and detailed accounting for all monies spent in  
8 accordance with this section for construction of new off-highway vehicle  
9 trails, mitigation of damages to lands, revegetation, the prevention and  
10 restoration of damages to natural and cultural resources, signage, maps and  
11 necessary environmental, historical and cultural clearance or compliance  
12 activities.

13           J. For the purposes of this section, "off-highway vehicle recreational  
14 plan" means a plan that is maintained by the Arizona state parks board  
15 pursuant to section 41-511.04.

16           Sec. 5. Section 28-2232, Arizona Revised Statutes, is amended to read:  
17 28-2232. International proportional registration authority;  
18 rules

19           A. Except as otherwise provided in this article, the registration of  
20 fleet vehicles on a proportional basis without reference to or application of  
21 section 28-2051, 28-2052, 28-2321, 28-2322, 28-2323 or 28-2324 or other  
22 statutes of this state relating to vehicle registration is authorized.

23           B. Sections 28-2161, ~~AND~~ 28-2162 ~~and 28-5724~~ and article 16 of this  
24 chapter apply to vehicles proportionally registered pursuant to this article.

25           C. This article does not require a vehicle to be proportionally  
26 registered if the vehicle is otherwise registered in this state for the  
27 operation in which the vehicle is engaged under section 28-2003, 28-2324,  
28 28-2325 or 28-5433 or any other law prescribing vehicle registration fees.

29           D. The director shall adopt rules necessary to administer and enforce  
30 this article.

31           Sec. 6. Section 28-5474, Arizona Revised Statutes, is amended to read:  
32 28-5474. Axle fees; commercial vehicles; border crossing;  
33 definition

34           A. The director may adopt rules establishing a fee based on the number  
35 of axles attached to a foreign vehicle or a foreign vehicle combination that  
36 is imposed on nonresidents operating or causing the operation of a foreign  
37 vehicle or foreign vehicle combination that enters this state by crossing the  
38 border between this state and the republic of Mexico in the furtherance of a  
39 commercial enterprise.

40           B. If the director establishes a fee by rule pursuant to this section,  
41 the fee shall apply to a nonresident operating or causing the operation of a  
42 foreign vehicle or foreign vehicle combination and who is required to  
43 register the foreign vehicle or foreign vehicle combination pursuant to  
44 section 28-2321 or who is responsible for payment of any fees required by  
45 ~~sections~~ SECTION 28-2324, 28-2325, ~~28-5739, 28-5763~~ 28-5863 or 28-5864.

1 C. The director shall deposit, pursuant to sections 35-146 and 35-147,  
2 fees collected ~~by rules established~~ pursuant to this section in the safety  
3 enforcement and transportation infrastructure fund established by  
4 section 28-6547.

5 D. For the purposes of this section, "foreign vehicle" or "foreign  
6 vehicle combination" means a truck or truck tractor and semitrailer and any  
7 trailer that it tows that is registered in a foreign country or jurisdiction  
8 of a foreign country and enters this state by crossing the border between  
9 this state and the republic of Mexico in the furtherance of a commercial  
10 enterprise.

11 Sec. 7. Heading change

12 The article heading of title 28, chapter 16, article 1, Arizona Revised  
13 Statutes, is changed from "MOTOR FUEL TAXES" to "AVIATION FUEL TAX  
14 COLLECTION".

15 Sec. 8. Section 28-5601, Arizona Revised Statutes, is amended to read:  
16 28-5601. Definitions

17 In this article and ~~articles 2 and~~ ARTICLE 5 of this chapter, unless  
18 the context otherwise requires:

19 1. "Blending":

20 (a) Means the mixing of one or more products, regardless of the  
21 original character of the product blended, if the product obtained by the  
22 blending is capable of use or otherwise sold for use in the generation of  
23 power for the propulsion of ~~a motor vehicle, AN~~ aircraft ~~or watercraft~~.

24 (b) Does not include blending that occurs in the process of refining  
25 by the original refiner of crude petroleum or the blending of products known  
26 as lubricating oil and greases.

27 ~~2. "Bulk end user" means a person who receives into the person's own  
28 storage facilities in transport truck lots motor fuel for the person's own  
29 consumption.~~

30 ~~3.~~ 2. "Bulk plant" means ~~a motor~~ AN AVIATION fuel storage and  
31 distribution facility that is not a terminal and from which ~~motor~~ AVIATION  
32 fuel may be removed at a rack.

33 ~~4.~~ 3. "Bulk transfer" means any transfer of ~~motor~~ AVIATION fuel from  
34 one location to another by pipeline tender or marine delivery within the bulk  
35 transfer terminal system.

36 ~~5.~~ 4. "Bulk transfer terminal system" means the ~~motor~~ AVIATION fuel  
37 distribution system consisting of refineries, pipelines, marine vessels and  
38 terminals. ~~Motor~~ AVIATION fuel in a refinery, pipeline, vessel or terminal  
39 is in the bulk transfer terminal system. ~~Motor~~ AVIATION fuel in the fuel  
40 supply tank of any engine, or in any tank car, rail car, trailer, truck or  
41 other equipment suitable for ground transportation, is not in the bulk  
42 transfer terminal system.

43 ~~6.~~ 5. "Consumer" means ~~the end purchaser of motor vehicle fuel for  
44 use on the highways in this state, the end purchaser of motor vehicle fuel~~

1 ~~for use in watercraft on waterways of this state or~~ the end purchaser of  
2 aviation fuel for use in aircraft.

3 ~~7.~~ 6. "Destination state" means the state, territory or foreign  
4 country to which ~~motor~~ AVIATION fuel is directed for delivery into a storage  
5 facility, a receptacle, a container or a type of transportation equipment for  
6 the purpose of resale or use.

7 ~~8.~~ 7. "Distributor" means a person who acquires ~~motor~~ AVIATION fuel  
8 from a supplier or another distributor for subsequent sale or use and who may  
9 blend or import into or export from this state ~~motor~~ AVIATION fuel in the  
10 original package or container or otherwise but excluding a person who imports  
11 ~~motor~~ AVIATION fuel in the fuel tank of ~~a motor vehicle or~~ AN aircraft.

12 ~~9. "Dyed diesel fuel" means diesel fuel that is dyed pursuant to~~  
13 ~~United States internal revenue service regulations or requirements, including~~  
14 ~~any invisible marker requirements.~~

15 ~~10.~~ 8. "Fuel tank" means a receptacle on ~~a motor vehicle, watercraft~~  
16 ~~or~~ AN aircraft from which fuel is supplied for the propulsion of the ~~motor~~  
17 ~~vehicle, watercraft or~~ aircraft, excluding a cargo tank but including a  
18 separate compartment of a cargo tank used as a fuel tank and an auxiliary  
19 tank or receptacle of any kind from which fuel is supplied for the propulsion  
20 of the ~~motor vehicle, watercraft or~~ aircraft, whether or not the tank or  
21 receptacle is directly connected to the fuel supply line of the ~~motor~~  
22 ~~vehicle, watercraft or~~ aircraft.

23 ~~11. "Highway" means any way or place in this state of whatever nature~~  
24 ~~that is maintained by public monies and that is open to the use of the public~~  
25 ~~for purposes of vehicular travel, including a highway under construction.~~

26 ~~12. "In this state" means any way or place within the exterior limits~~  
27 ~~of the state of Arizona that is maintained by public monies, including any~~  
28 ~~such way or place that is owned by or ceded to the United States of America.~~

29 ~~13. "Indian reservation" means all lands that are within the limits of~~  
30 ~~areas set aside by the United States for the exclusive use and occupancy of~~  
31 ~~Indian tribes by treaty, law or executive order and that are currently~~  
32 ~~recognized as Indian reservations by the United States department of the~~  
33 ~~interior.~~

34 ~~14.~~ 9. "Indian tribe" means any organized nation, tribe, band or  
35 community recognized as an Indian tribe by the United States department of  
36 the interior.

37 ~~15. "Interstate user" means a person registering a use class motor~~  
38 ~~vehicle under chapter 7, article 7 or 8 of this title or section 28-2321 or~~  
39 ~~28-2324.~~

40 ~~16.~~ 10. "Invoiced gallons" means the gallons actually billed on an  
41 invoice in payment to a supplier.

42 ~~17. "Light class motor vehicle" means a motor vehicle that uses use~~  
43 ~~fuel on the highways in this state but excludes a road tractor, truck~~  
44 ~~tractor, truck or passenger carrying vehicle having a declared gross vehicle~~  
45 ~~weight of more than twenty six thousand pounds or having more than two axes.~~

1           ~~18. "Motor fuel" means motor vehicle fuel, use fuel and aviation fuel.~~  
2           ~~19. "Motor vehicle" means a self propelled vehicle required to be~~  
3 ~~licensed or subject to licensing for operation on a highway.~~  
4           ~~20.~~ 11. "Permissive supplier" means an out-of-state supplier that  
5 elects, but is not required, to have a supplier's license pursuant to this  
6 article.  
7           ~~21.~~ 12. "Person" means an individual, firm, partnership, joint  
8 venture, association, corporation, estate, trust, business trust, receiver or  
9 syndicate, this state, any county, city, town, district or other subdivision  
10 of this state, an Indian tribe, or any other group or combination acting as a  
11 unit.  
12           ~~22.~~ 13. "Position holder":  
13           (a) Means the person who holds the inventory position in ~~motor~~  
14 AVIATION fuel in a terminal, as reflected on the records of the terminal  
15 operator. For the purposes of this subdivision, "a person who holds the  
16 inventory position in ~~motor~~ AVIATION fuel" means a person who has a contract  
17 with the terminal operator for the use of storage facilities and terminaling  
18 services for fuel at the terminal.  
19           (b) Includes a terminal operator who owns fuel in the terminal.  
20           ~~23. "Public monies" means those monies that are received by this state~~  
21 ~~and that are derived all or in part from tax revenues or other funding~~  
22 ~~sources.~~  
23           ~~24.~~ 14. "Qualified terminal" means a terminal that is designated as a  
24 qualified terminal pursuant to the United States internal revenue code,  
25 regulation and practices and that has been assigned a terminal control number  
26 by the United States internal revenue service.  
27           ~~25.~~ 15. "Rack" means a mechanism for delivering ~~motor~~ AVIATION fuel  
28 from a refinery, a terminal or a bulk plant into a railroad tank car, a  
29 transport truck or other means of transfer that is outside the bulk transfer  
30 terminal system.  
31           ~~26.~~ 16. "Refiner" means any person who owns, operates or otherwise  
32 controls a refinery within the United States.  
33           ~~27.~~ 17. "Refinery" means a facility that is used to produce ~~motor~~  
34 AVIATION fuel from crude oil, unfinished oils, natural gas liquids, transmix  
35 or other hydrocarbons or by blending and from which ~~motor~~ AVIATION fuel may  
36 be removed by pipeline, by vessel or at a rack.  
37           ~~28. "Road tractor" means a motor vehicle that is designed and used for~~  
38 ~~drawing other vehicles and that is not constructed to carry either a load~~  
39 ~~independently or any part of the weight of a vehicle or load so drawn.~~  
40           ~~29.~~ 18. "Sell" includes a transfer of title or possession, exchange or  
41 barter in any manner or by any means.  
42           ~~30.~~ 19. "Supplier":  
43           (a) Means a person who is registered pursuant to section 4101 of the  
44 United States internal revenue code for transactions in ~~motor~~ AVIATION fuels

1 in the bulk transfer terminal distribution system and who is one of the  
2 following:

3 (i) The position holder in a terminal or refinery in this state.

4 (ii) A person who imports ~~motor~~ AVIATION fuel into this state from a  
5 foreign country.

6 (iii) A person who acquires ~~motor~~ AVIATION fuel from a terminal or  
7 refinery in this state from a position holder pursuant to a two party  
8 exchange.

9 (iv) The position holder in a terminal or refinery outside this state  
10 with respect to ~~motor~~ AVIATION fuel that that person imports into this state  
11 on the account of that person.

12 (b) Includes a permissive supplier unless specifically provided  
13 otherwise. Supplier does not include a terminal operator merely because the  
14 terminal operator handles ~~motor~~ AVIATION fuel consigned to the terminal  
15 operator within a terminal.

16 ~~31-~~ 20. "Terminal" means a storage and distribution facility for ~~motor~~  
17 AVIATION fuel, which is supplied by pipeline or marine vessel, that is  
18 registered as a qualified terminal by the United States internal revenue  
19 service and from which ~~motor~~ AVIATION fuel may be removed at a rack.

20 ~~32-~~ "Terminal bulk transfer" includes the following:

21 ~~(a) A marine barge movement of motor fuel from a refinery or terminal~~  
22 ~~to a terminal.~~

23 ~~(b) Pipeline movements of motor fuel from a refinery or terminal to a~~  
24 ~~terminal.~~

25 ~~33-~~ 21. "Terminal operator" means any person who owns, operates or  
26 otherwise controls a terminal and who does not use a substantial portion of  
27 the ~~motor~~ AVIATION fuel that is transferred through or stored in the terminal  
28 for the person's own use or consumption or in the manufacture of products  
29 other than ~~motor~~ AVIATION fuel. A terminal operator may own the ~~motor~~  
30 AVIATION fuel that is transferred through or stored in the terminal.

31 ~~34-~~ 22. "Transmix" means the buffer or interface between two different  
32 products in a pipeline shipment or a mix of two different products within a  
33 refinery or terminal that results in an off-grade mixture that is not usable  
34 or salable as motor fuel.

35 ~~35-~~ 23. "Two party exchange" means a transaction:

36 (a) In which ~~motor~~ AVIATION fuel is transferred from one licensed  
37 supplier or licensed permissive supplier to another licensed supplier or  
38 licensed permissive supplier.

39 (b) That includes a transfer from the person that holds the original  
40 inventory position for ~~motor~~ AVIATION fuel in the terminal as reflected on  
41 the records of the terminal operator.

42 (c) That is simultaneous with removal from the terminal by the  
43 receiving exchange party.

44 (d) In which the terminal operator in the terminal operator's books  
45 and records treats the receiving exchange party as the supplier that removes

1 the product across a terminal rack for purposes of reporting the events to  
2 the department.

3 ~~36. "Use" includes the placing of fuel into any receptacle on a motor  
4 vehicle from which fuel is supplied for the propulsion of the vehicle unless  
5 the operator of the vehicle establishes to the satisfaction of the director  
6 that the fuel was consumed for a purpose other than to propel a motor vehicle  
7 on a highway in this state and, with respect to fuel brought into this state  
8 in any such receptacle on a use class motor vehicle, the consumption of the  
9 fuel in this state. A person who places fuel in a receptacle on a use class  
10 motor vehicle of another is not deemed to have used the fuel.~~

11 ~~37. "Use class motor vehicle" means a motor vehicle that uses use fuel  
12 on a highway in this state and that is a road tractor, truck tractor, truck  
13 or passenger carrying vehicle having a declared gross vehicle weight of more  
14 than twenty-six thousand pounds or having more than two axles.~~

15 ~~38. "Use fuel" includes all gases and liquids used or suitable for use  
16 to propel motor vehicles, except fuels that are subject to the motor vehicle  
17 fuel tax imposed by this article.~~

18 ~~39. "User" includes a person who, within the meaning of the term use as  
19 defined in this section, uses fuel in a use class motor vehicle.~~

20 ~~40. "Vendor" includes a person who sells use fuel in this state and who  
21 places the fuel or causes the fuel to be placed into any receptacle on a  
22 motor vehicle from which receptacle fuel is supplied for the propulsion,  
23 including a service station dealer, a broker and a user who sells use fuel to  
24 others.~~

25 Sec. 9. Section 28-5603, Arizona Revised Statutes, is amended to read:

26 28-5603. Aviation fuel testing

27 A. The director may take samples of any liquid believed to be ~~motor~~  
28 AVIATION fuel and may make or cause to be made an analysis of the liquid.

29 B. The chemistry department or other qualified department of the  
30 university of Arizona shall:

31 1. Analyze samples on request of the director.

32 2. Promptly furnish to the director a full report of the analysis  
33 without cost.

34 Sec. 10. Section 28-5604, Arizona Revised Statutes, is amended to  
35 read:

36 28-5604. Reward for detecting violations

37 The department may set up in its budget for the fiscal year an item  
38 from which a person, other than a state officer or employee, who directs the  
39 attention of the director to a person who has failed to file the required  
40 reports and has failed to pay taxes imposed by ~~this article or~~ section  
41 28-8344 may be paid an amount that in the discretion of the department is  
42 deemed proper but that does not exceed ten per cent of the amount of the tax,  
43 penalty and interest ultimately collected from the person as a result of the  
44 information.

1           Sec. 11. Repeal

2           Section 28-5605, Arizona Revised Statutes, is repealed.

3           Sec. 12. Section 28-5606, Arizona Revised Statutes, is amended to  
4 read:

5           28-5606. Imposition of aviation fuel taxes

6           ~~A. In addition to all other taxes provided by law, a tax of eighteen~~  
7 ~~cents per gallon is imposed on motor vehicle fuel possessed, used or consumed~~  
8 ~~in this state.~~

9           ~~B. To partially compensate this state for the use of its highways:~~

10           ~~1. A use fuel tax is imposed on use fuel used in the propulsion of a~~  
11 ~~light class motor vehicle on a highway in this state at the same rate per~~  
12 ~~gallon as the motor vehicle fuel tax prescribed in subsection A of this~~  
13 ~~section, except that there is no use fuel tax on alternative fuels.~~

14           ~~2. A use fuel tax is imposed on use fuel used in the propulsion of a~~  
15 ~~use class motor vehicle on a highway in this state at the rate of twenty-six~~  
16 ~~cents for each gallon, except that there is no use fuel tax on alternative~~  
17 ~~fuels and use class vehicles that are exempt pursuant to section 28-5432 from~~  
18 ~~the weight fee prescribed in section 28-5433 are subject to the use fuel tax~~  
19 ~~imposed by paragraph 1 of this subsection.~~

20           ~~3. Beginning from and after August 31, 2005 through December 31, 2010,~~  
21 ~~a use fuel tax is imposed on use fuel used in the propulsion of a motor~~  
22 ~~vehicle transporting forest products in compliance with the requirements of~~  
23 ~~section 41-1516 on a highway in this state at the rate of thirteen cents for~~  
24 ~~each gallon, except that there is no use fuel tax on alternative fuels.~~

25           ~~C. A. The motor vehicle fuel and use fuel taxes imposed pursuant to~~  
26 ~~this section and the aviation fuel taxes imposed pursuant to section 28-8344~~  
27 ~~are conclusively presumed to be direct taxes on the consumer or user but~~  
28 ~~shall be collected and remitted to the department by suppliers for the~~  
29 ~~purpose of convenience and facility only. Motor vehicle fuel, use fuel and~~  
30 ~~Aviation fuel taxes that are collected and paid to the department by a~~  
31 ~~supplier are considered to be advance payments, shall be added to the price~~  
32 ~~of motor vehicle fuel, use fuel or aviation fuel and shall be recovered from~~  
33 ~~the consumer or user.~~

34           ~~D. B. Motor vehicle fuel and use fuel taxes imposed pursuant to this~~  
35 ~~section on the use of motor vehicle fuel and use fuel and~~ The aviation fuel  
36 taxes imposed pursuant to section 28-8344 on the use of aviation fuel, other  
37 than by bulk transfer, arise at the time the ~~motor vehicle, use or~~ aviation  
38 fuel either:

39           ~~1. Is imported into this state and is measured by invoiced gallons~~  
40 ~~received outside this state at a refinery, terminal or bulk plant for~~  
41 ~~delivery to a destination in this state.~~

42           ~~2. Is removed, as measured by invoiced gallons, from the bulk transfer~~  
43 ~~terminal system or from a qualified terminal in this state.~~

44           ~~3. Is removed, as measured by invoiced gallons, from the bulk transfer~~  
45 ~~terminal system or from a qualified terminal or refinery outside this state~~

1 for delivery to a destination in this state as represented on the shipping  
2 papers if a supplier imports the ~~motor vehicle, use or~~ aviation fuel for the  
3 account of the supplier or the supplier has made a tax precollection election  
4 pursuant to section 28-5636.

5 ~~E-~~ C. If ~~motor~~ AVIATION fuel is removed from the bulk transfer  
6 terminal system or from a qualified terminal or is imported into this state,  
7 the original removal, transfer or importation of the ~~motor~~ AVIATION fuel is  
8 subject to the collection of the tax. If this ~~motor~~ AVIATION fuel is  
9 transported to another qualified terminal or reenters the bulk transfer  
10 terminal system, the subsequent sale of the ~~motor~~ AVIATION fuel on which tax  
11 has been collected is not subject to collection of an additional tax if  
12 proper documentation is retained to support the transaction.

13 Sec. 13. Section 28-5607, Arizona Revised Statutes, is amended to  
14 read:

15 28-5607. Aviation fuel imported by other than licensed  
16 supplier; payment of tax; fee; import limitation

17 A. A person who is not licensed as a supplier and who imports ~~motor~~  
18 AVIATION fuel from a point outside this state to a point in this state shall  
19 pay both:

20 1. The tax at a department facility approved by the director before  
21 importing the fuel.

22 2. A twenty-five dollar administrative processing fee.

23 B. A person who is not licensed as a supplier and who causes ~~motor~~  
24 AVIATION fuel on which taxes have not been collected to be transported from a  
25 point outside this state to a point in this state shall pay to the director  
26 the following:

27 1. The tax required by section ~~28-5606 or~~ 28-8344.

28 2. A penalty equal to the tax required by section ~~28-5606 or~~ 28-8344.

29 3. Interest of one per cent per month or portion of a month on the  
30 tax.

31 C. A person who is not licensed as a supplier may not import more than  
32 sixteen thousand gallons of ~~motor~~ AVIATION fuel per calendar year.

33 Sec. 14. Section 28-5608, Arizona Revised Statutes, is amended to  
34 read:

35 28-5608. Aviation fuel imported in fuel tanks; violation;  
36 classification

37 A. An owner or operator of ~~a motor vehicle, watercraft or~~ AN aircraft  
38 who imports ~~motor~~ AVIATION fuel into this state in the fuel tank ~~or tanks~~ of  
39 ~~a motor vehicle, watercraft or~~ THE aircraft in a quantity exceeding the  
40 capacity of the fuel tank ~~or tanks~~ of that ~~vehicle, watercraft or~~ aircraft  
41 according to the manufacturer's stock specifications shall pay to the  
42 director the tax required of suppliers on the excess ~~motor~~ AVIATION fuel.

43 B. A person who violates this section is guilty of a class 2  
44 misdemeanor.

1           Sec. 15. Section 28-5609, Arizona Revised Statutes, is amended to  
2 read:

3           28-5609. Railroad common carrier exemption; exception; report

4           A. Except for section 28-5607, subsection B, sections 28-5602,  
5 28-5603, 28-5608, 28-5610, ~~28-5611~~, 28-5612, 28-5622, 28-5624 and 28-5923 and  
6 this section, this article does not apply to railroad common carriers that  
7 are not engaged in the business of a supplier for pecuniary gain.

8           B. A railroad common carrier:

9           1. If it imports ~~motor~~ AVIATION fuel, shall make a verified report to  
10 the director on forms prescribed and furnished by the director, on or before  
11 the twenty-seventh day of the next succeeding month, showing the amount of  
12 fuel it has imported.

13           2. If it sells, otherwise disposes of or uses any fuel it has imported  
14 in ~~a motor vehicle operated on the highways in this state or in a watercraft~~  
15 ~~or~~ an aircraft, shall make a verified report to the director on forms  
16 prescribed and furnished by the director, on or before the twenty-seventh day  
17 of the next succeeding month, showing either:

18           (a) The name of the person or persons to whom the fuel was sold or  
19 otherwise disposed of.

20           (b) If used by it in ~~a motor vehicle operated on the highways in this~~  
21 ~~state or in a watercraft or~~ an aircraft, a description of the ~~vehicle,~~  
22 ~~watercraft or~~ aircraft in which the fuel was used.

23           3. Shall pay to the director at the time the report is made the tax  
24 required of suppliers by this article.

25           4. Shall furnish to the director other information concerning ~~motor~~  
26 AVIATION fuel imported by it as the director requires.

27           5. May be required to file a bond with the director in an amount fixed  
28 by the director to ensure compliance with this section.

29           Sec. 16. Section 28-5610, Arizona Revised Statutes, is amended to  
30 read:

31           28-5610. Exemptions

32           A. The following are exempt from ~~motor vehicle fuel and use fuel taxes~~  
33 ~~imposed by section 28-5606 and~~ aviation fuel taxes imposed by section  
34 28-8344:

35           1. ~~Motor~~ AVIATION fuel for which proof of export is available in the  
36 form of a terminal-issued destination state shipping paper or bill of lading  
37 and that is either:

38           (a) Exported by a supplier who is licensed in the destination state.

39           (b) Sold by a supplier to a distributor for immediate export.

40           2. ~~Motor~~ AVIATION fuel that was acquired by a distributor, as to which  
41 the tax imposed by ~~this article or~~ section 28-8344 has previously been paid  
42 or accrued and that was subsequently exported by transport truck by or on  
43 behalf of the distributor in a diversion across state boundaries properly  
44 reported to the department. If diverted by a distributor, the distributor

1 shall perfect the exemption by filing a refund application with the  
2 department within six months after the diversion.

3 ~~3. Motor vehicle fuel or use fuel that is sold within an Indian  
4 reservation to an enrolled member of the Indian tribe who is living on the  
5 Indian reservation established for the benefit of that Indian tribe and that  
6 is used by the enrolled member for the enrolled member's own benefit. This  
7 exemption does not apply to sales within an Indian reservation by an Indian  
8 or Indian tribe to non-Indian consumers or to Indian consumers who are not  
9 members of the Indian tribe for which the Indian reservation was established  
10 or to use fuel used to operate motor vehicles for a commercial purpose  
11 outside of the reservation on highways in this state. For the purposes of  
12 this paragraph, "Indian" means an individual who is registered on the tribal  
13 rolls of the Indian tribe for whose benefit the Indian reservation was  
14 created.~~

15 ~~4. Motor vehicle fuel or use fuel used solely and exclusively as fuel  
16 to operate a motor vehicle on highways in this state if the motor vehicle is  
17 leased to or owned by and is being operated for the sole benefit of an Indian  
18 tribe for governmental purposes only.~~

19 ~~5. 3. Motor~~ AVIATION fuel that is moving in interstate or foreign  
20 commerce and that is not destined or diverted to a point in this state.

21 ~~6. 4. Motor vehicle or~~ Aviation fuel that is sold to the United  
22 States or an instrumentality or agency of the United States.

23 ~~7. Taxable use fuel that has been accidentally contaminated so as to  
24 be unsalable as highway fuel as proved by proper documentation.~~

25 ~~8. Dyed diesel fuel, including fuel used by either of the following:  
26 (a) A farm tractor or implement of husbandry designed primarily for or  
27 used in agricultural operations and only incidentally operated or moved on a  
28 highway.~~

29 ~~(b) A road roller or vehicle that is all of the following:~~

30 ~~(i) Designed and used primarily for grading, paving, earthmoving or  
31 other construction work on a highway.~~

32 ~~(ii) Not designed or used primarily for transportation of persons or  
33 property.~~

34 ~~(iii) Incidentally operated or moved over the highway.~~

35 ~~B. A use class vehicle shall pay the use fuel tax for light class  
36 motor vehicles prescribed by section 28-5606, subsection B, paragraph 1 if  
37 the vehicle is a truck and satisfies all of the following:~~

38 ~~1. Is at least twenty-five years old.~~

39 ~~2. Has been issued a historic vehicle license plate pursuant to  
40 section 28-2484.~~

41 ~~3. Is not used as a commercial vehicle.~~

42 ~~C. Notwithstanding subsection A, paragraph 8 of this section, the  
43 following are not exempt from use fuel taxes imposed by section 28-5606:~~

1 ~~1. A vehicle that was originally designed for the transportation of~~  
2 ~~persons or property and to which machinery is attached or on which machinery~~  
3 ~~or other property may be transported.~~

4 ~~2. A dump truck.~~

5 ~~3. A truck mounted transit mixer.~~

6 ~~4. A truck or trailer mounted crane.~~

7 ~~5. A truck or trailer mounted shovel.~~

8 ~~D. B. Except as provided in subsection E of this section,~~ A person  
9 who claims an exemption pursuant to this section shall perfect the exemption  
10 by claiming a refund pursuant to section 28-5612.

11 ~~E. Subject to sections 28-5645 through 28-5649, dyed diesel fuel is~~  
12 ~~exempt from use fuel taxes at the time of sale.~~

13 Sec. 17. Repeal

14 Section ~~28-5611~~, Arizona Revised Statutes, is repealed.

15 Sec. 18. Section 28-5612, Arizona Revised Statutes, is amended to  
16 read:

17 ~~28-5612.~~ Refund procedure; violation

18 A. A person who is seeking a refund and who is not licensed as a  
19 supplier, ~~interstate user, restricted distributor or use fuel vendor~~ shall:

20 1. File an application with the director within six months after the  
21 date of sale.

22 2. Submit proof satisfactory to the director of the following:

23 (a) The purpose for which the fuel was used.

24 (b) The tax paid purchase.

25 3. Make an application in a form prescribed by the department that  
26 requests the following information:

27 (a) Name and address of the claimant.

28 (b) Period covered by the claim showing dates.

29 (c) Location of equipment, if applicable.

30 (d) Gallons on which a refund is claimed.

31 (e) Amount of the refund claimed.

32 (f) Other information required by the director.

33 B. The claim shall not be under oath but shall contain or be  
34 accompanied by a written declaration that it is made under penalties of  
35 perjury ~~and, if it is for motor vehicle fuel, that it complies in all~~  
36 ~~respects with section 28-5611 relating to refunds.~~

37 C. The original invoice or a duplicate that is satisfactory to the  
38 director and that includes the following information shall accompany the  
39 application:

40 1. The date of purchase.

41 2. The seller's name and address.

42 3. The number of gallons purchased.

43 4. The type of fuel purchased.

44 5. The price per gallon of the fuel.

45 6. Other information required by the director.

1 D. If a person files a claim for a refund pursuant to this section for  
2 ~~motor~~ AVIATION fuel exported, the person shall make satisfactory proof of  
3 export to the director and file the claim within three months after the date  
4 of export in the form and containing the information required by the  
5 director. The original invoice or an acceptable duplicate shall accompany  
6 the claim.

7 E. The director shall accept only one application for refund of ~~motor~~  
8 AVIATION fuel taxes for any one person within a six month period if the  
9 aggregate total of all ~~motor~~ AVIATION fuel taxes paid and for which a refund  
10 is claimed does not equal at least ten dollars.

11 ~~F. If a person who is exempt from use fuel taxes pursuant to section~~  
12 ~~28-5610 submits a claim for a refund pursuant to this section for use fuel~~  
13 ~~taxes, the department shall not pay the refund until the department~~  
14 ~~determines the difference between the amount of the refund and the amount of~~  
15 ~~the use tax that is imposed under title 42, chapter 5, article 4 on the fuel~~  
16 ~~exempt from use fuel taxes if owed by the person. If the department~~  
17 ~~determines that the amount of the refund is greater than the amount owed for~~  
18 ~~the use tax, the department shall deposit the amount owed for the use tax~~  
19 ~~pursuant to subsection M of this section and refund the amount of the~~  
20 ~~difference to the person. If the department determines that the amount of~~  
21 ~~the refund is less than the amount owed for the use tax, the department shall~~  
22 ~~forward any balance due information to the department of revenue for~~  
23 ~~collection.~~

24 ~~G. Except as provided in subsection F of this section, if the director~~  
25 ~~does not issue a refund within sixty days after a complete application for~~  
26 ~~refund is filed as prescribed in this article, the director shall pay~~  
27 ~~interest at the rate of eleven per cent per year from the date the complete~~  
28 ~~application for refund is filed until the date on which the refund is made.~~

29 H. F. If the director denies a refund, the director shall notify the  
30 claimant that the refund is denied. The director's denial is final unless  
31 the applicant makes a written request for a hearing as prescribed in section  
32 28-5924.

33 ~~I. It is unlawful for a person to knowingly operate a motor vehicle on~~  
34 ~~the highways or a watercraft on the waterways using motor vehicle fuel or use~~  
35 ~~fuel that has been sold to a person making a claim pursuant to this section.~~

36 J. G. In addition to other penalties prescribed by law, the director  
37 shall not give a person who violates this section a refund on ~~motor~~ AVIATION  
38 fuel purchased during the six months succeeding the date the director advises  
39 the person by mail of the director's discovery of the violation.

40 K. H. A person whose right to a refund is suspended may bring an  
41 action in superior court in Maricopa County to set aside the suspension.

42 L. I. The director may recover excess refunds from the person to whom  
43 the refund was made. The director shall assess the claimant the amount of  
44 the excess refund and interest. The director shall compute interest at one

1 per cent per month of the amount of excess refund due beginning on the date  
2 of refund and until the date the assessment is paid.

3 ~~M. The department of transportation shall deposit, pursuant to~~  
4 ~~sections 35-146 and 35-147, use tax revenues collected pursuant to subsection~~  
5 ~~F of this section in the state general fund by the end of each month and~~  
6 ~~notify the department of revenue of the amount of use tax collected each~~  
7 ~~month.~~

8 Sec. 19. Section 28-5613, Arizona Revised Statutes, is amended to  
9 read:

10 28-5613. Licensee refunds

11 ~~A.~~ A licensee who is seeking a refund shall apply pursuant to section  
12 28-5612, except that a licensee shall file an application for refund within  
13 three years after the date of purchase or invoice of the ~~motor~~ AVIATION fuel  
14 for which a refund is claimed.

15 ~~B. For the purposes of this section, "licensee" includes a supplier,~~  
16 ~~an interstate user, a restricted distributor or a licensed use fuel vendor.~~

17 Sec. 20. Repeal

18 Sections 28-5614, 28-5615, 28-5616 and 28-5617, Arizona Revised  
19 Statutes, are repealed.

20 Sec. 21. Section 28-5618, Arizona Revised Statutes, is amended to  
21 read:

22 28-5618. Report requirements

23 A. On or before the twenty-seventh day of each month, a supplier shall  
24 file with the director a true and verified statement in a form prescribed by  
25 the director showing:

26 1. The total number of gallons of ~~motor vehicle fuel or~~ aviation fuel,  
27 blended, imported, exported or acquired during the preceding calendar month.

28 2. The number of gallons of ~~motor vehicle fuel or~~ aviation fuel sold  
29 or otherwise disposed of by the supplier for use in each of the several  
30 counties of this state.

31 ~~3. The total number of gallons of motor vehicle fuel that is included~~  
32 ~~in this subsection and that is intended for use in aircraft.~~

33 ~~4.~~ 3. Other information the director requires.

34 ~~B. In addition to making the statement required in subsection A and if~~  
35 ~~the supplier received an interstate shipment of motor vehicle fuel during the~~  
36 ~~preceding month, the supplier shall report on or before the twenty-seventh~~  
37 ~~day of each month to the director in a form prescribed by the director:~~

38 ~~1. The quantity and particular description of the fuel received by~~  
39 ~~interstate shipment and delivered intercounty.~~

40 ~~2. The name of the consignor and consignee.~~

41 ~~3. The date shipped.~~

42 ~~4. The date received.~~

43 ~~5. How it was shipped.~~

44 ~~6. Other information the director requires.~~

1 ~~C.~~ B. A supplier may amend a report filed pursuant to this section  
2 within three years after the date the original tax report was filed unless  
3 the report for the period is final due to an audit.

4 ~~D.~~ C. If an amended report results in a reduction in taxes paid, the  
5 department shall credit the licensee's account unless the licensee files a  
6 written request for a refund.

7 Sec. 22. Section 28-5619, Arizona Revised Statutes, is amended to  
8 read:

9 28-5619. Records required; violation; classification

10 A. Suppliers ~~and restricted distributors~~ shall maintain and keep  
11 records of ~~motor vehicle fuel or~~ aviation fuel received, acquired, used, sold  
12 and delivered in this state by the supplier ~~or restricted distributor~~, the  
13 amount of tax paid as part of the purchase price, invoices, bills of lading  
14 and other pertinent records and papers required by the director for the  
15 reasonable administration of this article at least until the later of the  
16 following:

17 1. Three years after a report is required to be filed pursuant to this  
18 article.

19 2. Three years after a report is filed.

20 B. Any person, ~~other than a restricted distributor~~, purchasing ~~motor~~  
21 ~~vehicle fuel taxable under this article or~~ aviation fuel taxable under  
22 section 28-8344 from a supplier for the purpose of resale shall maintain and  
23 keep for one year a record of ~~motor vehicle fuel or~~ aviation fuel received,  
24 the amount of tax paid to the supplier as part of the purchase price,  
25 delivery tickets, invoices, bills of lading and other records the director  
26 requires.

27 C. Each distributor ~~and vendor~~ shall maintain and keep for three years  
28 ~~the following:~~

29 ~~1. Records of use fuel received, sold or delivered in this state by~~  
30 ~~the distributor or vendor.~~

31 ~~2.~~ invoices, bills of lading and other pertinent records and papers  
32 required by the director for the reasonable administration of this article.

33 ~~D. The director may require distributors to file information as to~~  
34 ~~sales or deliveries to vendors or users of use fuel at the times and in the~~  
35 ~~form as the director requires.~~

36 ~~E.~~ D. A person who violates this section is guilty of a class 1  
37 misdemeanor.

38 Sec. 23. Section 28-5620, Arizona Revised Statutes, is amended to  
39 read:

40 28-5620. Records and equipment inspections; hearings; costs

41 A. The director or a deputy, employee or agent authorized by the  
42 director may examine during usual business hours records, books, papers,  
43 storage tanks and any other equipment of a person pertaining to ~~motor~~  
44 AVIATION fuel imported, received, sold, shipped, delivered or used to either:

1           1. Verify the truth and accuracy of a statement, report, return or  
2 claim.

3           2. Ascertain whether the tax imposed by ~~this article or~~ section  
4 28-8344 has been paid.

5           3. Determine the financial responsibility of the supplier for the  
6 payment of the taxes imposed by ~~this article or~~ section 28-8344.

7           4. Determine the validity of a refund.

8           B. In the enforcement of this article, the director may hold hearings,  
9 take testimony of persons, issue subpoenas for the purpose of taking  
10 testimony, compel attendance of witnesses and conduct investigations the  
11 director deems necessary.

12           C. The director may prescribe forms for required reports or claims for  
13 refund or forms of record to be used by suppliers, distributors, ~~restricted~~  
14 ~~distributors, vendors~~ or refund claimants.

15           D. Records required by this article may be maintained in this state.  
16 If the records are maintained outside this state and on request of the  
17 director, the records shall be made available at a location in this state  
18 designated by the director. If the records are maintained outside this state  
19 and will not be made available at the location designated by the director,  
20 the director may require the person to whom a records request has been made  
21 to pay in advance costs reimbursable for subsistence and travel expenses for  
22 the director or an agent of the director to conduct the examination of the  
23 records.

24           Sec. 24. Section 28-5622, Arizona Revised Statutes, is amended to  
25 read:

26           28-5622. Tax estimate

27           If a person neglects or refuses to make and file a report as required  
28 by this article, or files an incorrect or fraudulent report, the director  
29 shall determine from information obtainable in the director's office or  
30 elsewhere the number of gallons of ~~motor~~ AVIATION fuel with respect to which  
31 the person has incurred liability under ~~this article or~~ section 28-8344.

32           Sec. 25. Repeal

33           Section 28-5623, Arizona Revised Statutes, is repealed.

34           Sec. 26. Section 28-5624, Arizona Revised Statutes, is amended to  
35 read:

36           28-5624. Transportation of aviation fuel by motor vehicle;  
37 documentation; violation; penalties

38           A. An operator of a motor vehicle transporting ~~motor~~ AVIATION fuel on  
39 a highway in this state shall carry documentation to accompany the shipment  
40 at all times while the shipment is being transported on the highways in this  
41 state. The director may inspect the documentation at any time.

42           B. The documentation shall include:

43           1. The date of shipment of the fuel.

44           2. The quantity and particular description of the fuel.

45           3. The names of the consignor and consignee.

1           4. The destination state of the fuel shipment.  
2           5. Other information as the director requires.  
3           C. An operator of a motor vehicle transporting ~~motor~~ AVIATION fuel in  
4 this state who fails to carry documentation at the time and in the manner  
5 required pursuant to subsection A of this section shall pay to the director a  
6 penalty of one hundred dollars for each shipment not accompanied by the  
7 required documentation in addition to payment of the tax required by section  
8 ~~28-5606 or the tax prescribed in section~~ 28-8344. An operator of a motor  
9 vehicle transporting ~~motor~~ AVIATION fuel may apply for abatement of the  
10 penalty pursuant to section 28-5934.  
11           Sec. 27. Repeal  
12           Section ~~28-5625~~, Arizona Revised Statutes, is repealed.  
13           Sec. 28. Section 28-5626, Arizona Revised Statutes, is amended to  
14 read:  
15           ~~28-5626. Suppliers; licenses required~~  
16           A. Except as provided in section 28-5607, a person who acts as a  
17 distributor and who possesses ~~motor~~ AVIATION fuel on which fuel taxes have  
18 not been accrued or collected by a supplier shall be licensed as a supplier.  
19           B. It is unlawful for a person to engage in business in this state as  
20 a supplier, unless the person has a license issued by the director to engage  
21 in that business.  
22           ~~C. A person who sells use fuel for delivery directly into a vehicle~~  
23 ~~fuel tank shall also be licensed as a vendor and shall maintain separate~~  
24 ~~business records.~~  
25           Sec. 29. Section 28-5633, Arizona Revised Statutes, is amended to  
26 read:  
27           ~~28-5633. License cancellation~~  
28           A. The director may immediately cancel the license of a supplier and  
29 ~~SHALL~~ notify the supplier in writing of the cancellation by certified mail,  
30 mailed to the last known address of the supplier appearing in the files of  
31 the department, if the supplier either:  
32           1. Files a false report of data or information required by this  
33 article.  
34           2. Fails, refuses or neglects to file a monthly report or any other  
35 report required by this article.  
36           3. Fails, refuses or neglects to pay the full amount of the tax  
37 required by ~~this article or~~ section 28-8344.  
38           B. The director may cancel a license that is issued to any supplier  
39 and that becomes effective sixty days after the date of receipt of the  
40 written request of the supplier for the cancellation. The director shall not  
41 cancel a license on request of a supplier unless the supplier pays, before  
42 the date of the cancellation, all taxes payable under ~~this article or~~ section  
43 28-8344 and all penalties and fines accruing by reason of the supplier's  
44 failure to make accurate reports as required by this article or to pay the  
45 taxes or penalties.

1 C. The director may cancel the license of a supplier on investigation  
2 and sixty days' notice mailed to the last known address of the supplier if  
3 the director determines that the person to whom the license has been issued  
4 is no longer engaged in the business of a supplier and has not been engaged  
5 in the business of a supplier for six months before the cancellation.

6 Sec. 30. Section 28-5634, Arizona Revised Statutes, is amended to  
7 read:

8 28-5634. Bond cancellation

9 If the license of a supplier is cancelled by the director pursuant to  
10 section 28-5633 and if the supplier has paid all taxes due and payable by the  
11 supplier as required by ~~this article or~~ section 28-8344 on the receipt, sale  
12 or use of ~~motor vehicle fuel or~~ aviation fuel and has paid all interest and  
13 penalties accruing by reason of the supplier's failure to make accurate  
14 reports or to pay the tax and interest and penalties, the director shall  
15 cancel and surrender the bond filed by the supplier.

16 Sec. 31. Section 28-5635, Arizona Revised Statutes, is amended to  
17 read:

18 28-5635. Discontinuance, sale or transfer of business;  
19 violation; classification

20 A. When a supplier ceases to engage in business as a supplier in this  
21 state and discontinues, sells or transfers the business:

22 1. The supplier shall notify the director in writing at least ten days  
23 before the discontinuance, sale or transfer takes effect. The notice shall  
24 give:

25 (a) The date of discontinuance, sale or transfer of the business.

26 (b) The name and address of the purchaser or transferee of the  
27 business.

28 2. All taxes, penalties and interest not then due and payable under  
29 ~~this article or~~ section 28-8344 are due and payable concurrently with the  
30 discontinuance, sale or transfer. Concurrent with the discontinuance, sale  
31 or transfer, the supplier shall:

32 (a) Make a report.

33 (b) Pay all taxes, interest and penalties.

34 (c) Surrender to the director the license issued to the supplier by  
35 the director.

36 B. Unless the notice is given to the director, the purchaser or  
37 transferee is liable to this state for the amount of all taxes, penalties and  
38 interest accrued under ~~this article or~~ section 28-8344 against the supplier  
39 who is selling or transferring the supplier's business on the date of the  
40 sale or transfer but only to the extent of the value of the property and  
41 business that is acquired from the supplier.

42 C. A person who violates this section is guilty of a class 1  
43 misdemeanor.

1           Sec. 32. Section 28-5636, Arizona Revised Statutes, is amended to  
2 read:

3           28-5636. Supplier blanket election

4           A. A licensed supplier may and a licensed permissive supplier shall  
5 make a blanket election with the department to treat all removals from all of  
6 its out-of-state terminals with a destination in this state as shown on the  
7 terminal-issued shipping paper or bill of lading as if the removals were  
8 removed across the rack by the supplier from a terminal in this state for all  
9 purposes.

10          B. The election provided by this section shall be made by filing a  
11 notice of election with the department.

12          C. The department shall release a list of electing suppliers under  
13 this section on request by any person.

14          ~~D. The absence of an election by a supplier under this section in no~~  
15 ~~way relieves the supplier of responsibility for remitting the tax imposed by~~  
16 ~~this article on the removal from an out-of-state terminal for import into~~  
17 ~~this state by the supplier.~~

18          ~~E.~~ D. Any supplier that makes the election provided by this section  
19 shall precollect the tax imposed pursuant to ~~this article or the tax imposed~~  
20 ~~pursuant to~~ section 28-8344 on all removals from a qualified terminal on its  
21 account as a position holder, or as a person receiving ~~motor vehicle or~~  
22 aviation fuel from a position holder pursuant to a two party exchange  
23 agreement without regard to the license status of the person acquiring the  
24 ~~motor vehicle or~~ aviation fuel from the supplier, the point or terms of sale  
25 or the character of delivery.

26          ~~F.~~ E. Each supplier who elects to precollect tax under this section  
27 agrees to waive any defense that the state lacks jurisdiction to require  
28 collection on all out-of-state sales by the supplier as to which the supplier  
29 had knowledge that the shipments were destined for this state and agrees that  
30 this state imposes the requirement pursuant to this subsection under its  
31 general police powers to regulate the movement of ~~motor vehicle or~~ aviation  
32 fuel.

33          ~~G.~~ F. Each supplier who elects to precollect tax pursuant to this  
34 section is not subject to any civil penalties or interest imposed pursuant to  
35 this article for any corrections resulting from a diversion of the ~~motor~~  
36 ~~vehicle or~~ aviation fuel from the original destination as represented by the  
37 purchaser or the agent of the purchaser.

38           Sec. 33. Section 28-5637, Arizona Revised Statutes, is amended to  
39 read:

40           28-5637. Collection of aviation fuel tax from purchaser;  
41                                   deferred remittance election

42           A. Each supplier who sells ~~motor~~ AVIATION fuel shall precollect from  
43 and remit on behalf of the purchaser the ~~motor vehicle fuel or use fuel tax~~  
44 ~~imposed pursuant to this article or the~~ aviation fuel tax imposed pursuant to  
45 section 28-8344.

1 B. At the election of an eligible purchaser, the supplier shall not  
2 require a payment of the ~~motor~~ AVIATION fuel tax on transport truck loads  
3 from the purchaser sooner than five business days before the date on which  
4 the tax is required to be remitted by the supplier under section 28-5925 or  
5 on other terms agreed to by the eligible purchaser and the supplier. This  
6 subsection does not apply if the supplier requires the purchaser to pay cash  
7 or a cash equivalent for ~~motor~~ AVIATION fuel purchases.

8 C. The election shall be evidenced by a written statement from the  
9 department as to the purchaser eligibility status as determined pursuant to  
10 section 28-5638 and is subject to a condition that the remittances by the  
11 eligible purchaser of all amounts of tax due the supplier shall be paid by  
12 electronic funds transfer on or before five days preceding the date of the  
13 remittance by the supplier to the department.

14 D. The election by the eligible purchaser under this section may be  
15 terminated by the supplier if the eligible purchaser does not make timely  
16 payments to the supplier as required by this section.

17 Sec. 34. Section 28-5638, Arizona Revised Statutes, is amended to  
18 read:

19 28-5638. Deferred remittance election eligibility

20 A. Each purchaser that desires to make an election under section  
21 28-5637 shall present evidence to the department that either:

22 1. The applicant was a licensed distributor in good standing before  
23 January 1, 1998.

24 2. The applicant meets the financial responsibility and bonding  
25 requirements imposed by this article. The bond shall conform to the specific  
26 requirements of this section.

27 B. The department may require a purchaser that pays the tax to a  
28 supplier to file with the department a surety bond that is payable to this  
29 state and on which the purchaser is the obligor, or other financial security,  
30 in an amount satisfactory to the department. The department may require that  
31 the bond indemnify the department against uncollectible tax credits claimed  
32 by the supplier under section 28-5639.

33 C. The department may rescind a purchaser's eligibility and election  
34 to defer ~~motor-vehicle-or~~ aviation fuel tax remittances after a hearing and  
35 on a showing of good cause, including failure to make a timely tax deferred  
36 payment of tax to a supplier under section 28-5637, by sending written notice  
37 to all suppliers or publishing notice of the revocation pursuant to rules.  
38 The department may require further assurance of the financial responsibility  
39 of the purchaser, may increase the bond requirement for that purchaser or may  
40 take any other action that the department may require to ensure remittance of  
41 the ~~motor-vehicle-or~~ aviation fuel tax.

1           Sec. 35. Section 28-5639, Arizona Revised Statutes, is amended to  
2 read:

3           28-5639. Uncollectible tax credit

4           A. In computing the amount of ~~motor~~ AVIATION fuel tax due, the  
5 supplier is entitled to a credit against the tax payable in the amount of tax  
6 paid by the supplier that has become uncollectible from an eligible  
7 purchaser.

8           B. The supplier shall provide notice to the department of a failure to  
9 collect the tax within thirty days after the earliest date on which the  
10 supplier was entitled to collect the tax from the eligible purchaser under  
11 section 28-5637.

12           C. The department shall adopt rules establishing the evidence a  
13 supplier must provide to receive the credit.

14           D. The credit shall be claimed on the first return after the  
15 expiration of the thirty day period if the payment remains unpaid as of the  
16 filing date of that return or the credit is disallowed.

17           E. The claim for credit shall identify the defaulting eligible  
18 purchaser and any tax liability that remains unpaid.

19           F. If an eligible purchaser fails to make a timely payment of the  
20 amount of tax due, the credit of the supplier is limited to the amount due  
21 from the purchaser, plus any tax that accrues from that purchaser for a  
22 period of thirty days after the date of failure to pay.

23           G. An additional credit shall not be allowed to a supplier under this  
24 section until the department authorizes the purchaser under section 28-5638  
25 to make a new election.

26           Sec. 36. Repeal

27           Section 28-5640, Arizona Revised Statutes, is repealed.

28           Sec. 37. Section 28-5644, Arizona Revised Statutes, is amended to  
29 read:

30           28-5644. Terminal operator; joint and several liability

31           A. A terminal operator is jointly and severally liable for the ~~motor~~  
32 ~~vehicle fuel or use fuel tax imposed pursuant to this article or the~~ aviation  
33 fuel tax imposed pursuant to section 28-8344 if both of the following apply:

34           1. The position holder with respect to the ~~motor vehicle, use or~~  
35 aviation fuel is a person other than the terminal operator.

36           2. The terminal operator does not meet the conditions prescribed in  
37 subsection B of this section.

38           B. The terminal operator is not liable for the ~~motor vehicle fuel or~~  
39 ~~use fuel tax imposed pursuant to this article or the~~ aviation fuel tax  
40 imposed pursuant to section 28-8344 if at the time of removal both of the  
41 following apply:

42           1. The terminal operator has an unexpired notification certificate  
43 from the position holder as required by the United States internal revenue  
44 service.

1           2. The terminal operator has no reason to believe that any information  
2 in the certificate is false.

3           Sec. 38. Repeal

4           Sections 28-5645, 28-5646, 28-5647, 28-5648 and 28-5649, Arizona  
5 Revised Statutes, are repealed.

6           Sec. 39. Repeal

7           Title 28, chapter 16, article 2, Arizona Revised Statutes, is repealed.

8           Sec. 40. Section 28-5925, Arizona Revised Statutes, is amended to  
9 read:

10          28-5925. Payment; distribution

11          A. The supplier, as shown in the records of the terminal operator, who  
12 removes the taxable gallons shall precollect and remit on behalf of consumers  
13 ~~and users~~ to the department the taxes that are imposed by ~~sections 28-5605~~  
14 ~~and SECTION~~ 28-8344 and that are measured by the invoiced gallons of ~~motor~~  
15 ~~AVIATION~~ fuel removed by a licensed supplier from a terminal or refinery in  
16 this state other than a bulk transfer.

17          B. The supplier and each reseller shall list the amount of tax as a  
18 separate line item on all invoices or billings or as a separate billing.

19          C. The ~~motor~~ AVIATION fuel tax that is accrued in any calendar month  
20 shall be paid on or before the twenty-seventh day of the next succeeding  
21 calendar month to the director.

22          D. A supplier shall remit any late taxes remitted to the supplier by  
23 an eligible purchaser and shall notify the department in a timely manner of  
24 any late remittances if that supplier has previously given notice to the  
25 department of an uncollectible tax amount pursuant to section 28-5639,  
26 subsection B.

27          E. On payment, the director shall promptly-

28           ~~1. Distribute the amount of money collected as a tax on sales of motor~~  
29 ~~vehicle fuel used in propelling watercraft pursuant to section 28-5926~~  
30 ~~beginning with the month following the conclusion of the survey conducted~~  
31 ~~pursuant to section 28-5926.~~

32           ~~2.~~ deposit, pursuant to sections 35-146 and 35-147, all remaining  
33 monies in ~~the Arizona highway user revenue fund or~~ the state aviation fund as  
34 determined from the reports filed pursuant to section 28-5618.

35          F. The director shall deduct all exemptions and refunds before  
36 depositing the monies.

37          Sec. 41. Repeal

38          Sections 28-5926 and 28-5927, Arizona Revised Statutes, are repealed.

39          Sec. 42. Section 28-6001, Arizona Revised Statutes, is amended to  
40 read:

41          28-6001. Underground storage tank tax; payments

42          ~~A.~~ A person who is responsible for collecting the ~~motor vehicle fuel~~  
43 ~~tax imposed by section 28-5606 or the~~ aviation fuel tax imposed by section  
44 28-8344 shall make periodic payments of the underground storage tank tax

1 imposed by title 49, chapter 6, article 2 to the director of the department  
2 of transportation.

3 ~~B. A person who is responsible for collecting the use fuel tax imposed~~  
4 ~~by section 28-5606 on diesel, including dyed diesel as defined in section~~  
5 ~~28-5601, shall register with the department of transportation on a form~~  
6 ~~prescribed by the department of transportation and shall make periodic~~  
7 ~~payments of the underground storage tank tax imposed by title 49, chapter 6,~~  
8 ~~article 2 to the director. For purposes of this subsection, "diesel" means~~  
9 ~~any liquid that is commonly or commercially known, offered for sale or used~~  
10 ~~as a fuel in diesel engines.~~

11 Sec. 43. Section 28-6006, Arizona Revised Statutes, is amended to  
12 read:

13 28-6006. Administration same as for aviation fuel tax

14 A. Section 28-5607, subsection B, sections 28-5602, 28-5603, 28-5619,  
15 28-5620, 28-5621 and 28-5622 and article 5 of this chapter apply to the  
16 persons from whom the underground storage tank tax is collected pursuant to  
17 section 28-6001 so that the underground storage tank tax is administered in  
18 the same manner as ~~motor~~ AVIATION fuel taxes.

19 B. Penalties, late filing fees and interest collected by the  
20 department of transportation shall be remitted to the director of the  
21 department of environmental quality in the same manner as the tax collected  
22 pursuant to this article.

23 Sec. 44. Section 28-6501, Arizona Revised Statutes, is amended to  
24 read:

25 28-6501. Definition of highway user revenues

26 In this article, unless the context otherwise requires or except as  
27 otherwise provided by statute, "highway user revenues" means all monies  
28 received in this state from licenses, taxes, penalties, interest and fees  
29 authorized by the following:

30 1. Chapters 2, 7, 8 and 15 of this title, except for:

31 (a) The special plate administration fees prescribed in sections  
32 28-2404, 28-2412 through 28-2432 and 28-2514.

33 (b) The donations prescribed in sections 28-2404, 28-2412 through  
34 28-2415, 28-2417 through 28-2432, 28-2453, 28-2454 and 28-2455.

35 2. Section 28-1177.

36 3. Chapters 10 and 11 of this title.

37 4. Chapter 16, ~~articles 1, 2 and~~ ARTICLE 4 of this title, ~~except as~~  
38 ~~provided in sections 28-5926 and 28-5927.~~

39 Sec. 45. Section 28-6540, Arizona Revised Statutes, is amended to  
40 read:

41 28-6540. Arizona highway user revenue fund distribution; state  
42 highway fund; county, city and town proportions

43 Each month the state treasurer shall distribute all revenues credited  
44 to the Arizona highway user revenue fund pursuant to the proportions  
45 prescribed in section 28-6538, subsection A as follows:



1 for relieving vehicle congestion at ports of entry on the border between this  
2 state and Mexico.

3 3. Construction, maintenance and upgrades of transportation  
4 facilities, including roads, streets and highways, approved by the board  
5 within twenty-five miles of the border between Arizona and Mexico.

6 4. As approved by the board, construction and maintenance of  
7 transportation facilities in the CANAMEX high priority corridor as defined in  
8 section 332 of the national highway system designation act of 1995  
9 (P.L. 104-59; 109 Stat. 596-597).

10 5. Activities of the department that include the collection of  
11 transportation and trade data in the United States and Mexico for the  
12 purposes of constructing transportation facilities, improving public safety,  
13 improving truck processing time and relieving congestion at ports of entry on  
14 the border between Arizona and Mexico. The department may enter into an  
15 agreement with the Arizona-Mexico commission and provide funding to the  
16 commission for the purposes contained in this paragraph.

17 6. A commitment or investment necessary for the department or another  
18 agency of this state to obtain federal monies that are designated for  
19 expenditure pursuant to this section.

20 C. If the department of transportation determines that activities  
21 proposed by the Arizona department of homeland security may improve traffic  
22 safety in this state, the department of transportation may enter into an  
23 agreement with, and provide, subject to legislative appropriation, fund  
24 monies to the Arizona department of homeland security for the purposes  
25 contained in this subsection.

26 D. If the department determines that activities proposed by the  
27 Arizona international development authority for planning, development and  
28 construction of transportation facilities on the border between Arizona and  
29 Mexico may improve traffic safety in this state, the department may enter  
30 into an agreement with, and provide, subject to legislative appropriation,  
31 fund monies to the Arizona international development authority for the  
32 purposes contained in this subsection.

33 E. On notice from the department, the state treasurer shall invest and  
34 divest monies in the fund as provided by section 35-313, and monies earned  
35 from investment shall be credited to the fund.

36 F. Monies in the fund are exempt from the provisions of section 35-190  
37 relating to lapsing of appropriations.

38 Sec. 47. Section 42-5061, Arizona Revised Statutes, is amended to  
39 read:

40 42-5061. Retail classification; definitions

41 A. The retail classification is comprised of the business of selling  
42 tangible personal property at retail. The tax base for the retail  
43 classification is the gross proceeds of sales or gross income derived from  
44 the business. The tax imposed on the retail classification does not apply to  
45 the gross proceeds of sales or gross income from:

- 1           1. Professional or personal service occupations or businesses which  
2 involve sales or transfers of tangible personal property only as  
3 inconsequential elements.
- 4           2. Services rendered in addition to selling tangible personal property  
5 at retail.
- 6           3. Sales of warranty or service contracts. The storage, use or  
7 consumption of tangible personal property provided under the conditions of  
8 such contracts is subject to tax under section 42-5156.
- 9           4. Sales of tangible personal property by any nonprofit organization  
10 organized and operated exclusively for charitable purposes and recognized by  
11 the United States internal revenue service under section 501(c)(3) of the  
12 internal revenue code.
- 13           5. Sales to persons engaged in business classified under the  
14 restaurant classification of articles used by human beings for food, drink or  
15 condiment, whether simple, mixed or compounded.
- 16           6. Business activity which is properly included in any other business  
17 classification which is taxable under THIS article ~~2 of this chapter~~.
- 18           7. The sale of stocks and bonds.
- 19           8. Drugs and medical oxygen, including delivery hose, mask or tent,  
20 regulator and tank, on the prescription of a member of the medical, dental or  
21 veterinarian profession who is licensed by law to administer such substances.
- 22           9. Prosthetic appliances as defined in section 23-501 prescribed or  
23 recommended by a health professional licensed pursuant to title 32, chapter  
24 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 25           10. Insulin, insulin syringes and glucose test strips.
- 26           11. Prescription eyeglasses or contact lenses.
- 27           12. Hearing aids as defined in section 36-1901.
- 28           13. Durable medical equipment which has a centers for medicare and  
29 medicaid services common procedure code, is designated reimbursable by  
30 medicare, is prescribed by a person who is licensed under title 32, chapter  
31 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
32 customarily used to serve a medical purpose, is generally not useful to a  
33 person in the absence of illness or injury and is appropriate for use in the  
34 home.
- 35           14. Sales to nonresidents of this state for use outside this state if  
36 the vendor ships or delivers the tangible personal property out of this  
37 state.
- 38           15. Food, as provided in and subject to the conditions of article 3 of  
39 this chapter and section 42-5074.
- 40           16. Items purchased with United States department of agriculture food  
41 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
42 958) or food instruments issued under section 17 of the child nutrition act  
43 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
44 section 1786).

1 17. Textbooks by any bookstore that are required by any state  
2 university or community college.

3 18. Food and drink to a person who is engaged in business which is  
4 classified under the restaurant classification and which provides such food  
5 and drink without monetary charge to its employees for their own consumption  
6 on the premises during the employees' hours of employment.

7 19. Articles of food, drink or condiment and accessory tangible  
8 personal property to a school district if such articles and accessory  
9 tangible personal property are to be prepared and served to persons for  
10 consumption on the premises of a public school within the district during  
11 school hours.

12 20. Lottery tickets or shares pursuant to title 5, chapter 5,  
13 article 1.

14 21. The sale of precious metal bullion and monetized bullion to the  
15 ultimate consumer, but the sale of coins or other forms of money for  
16 manufacture into jewelry or works of art is subject to the tax. For the  
17 purposes of this paragraph:

18 (a) "Monetized bullion" means coins and other forms of money which are  
19 manufactured from gold, silver or other metals and which have been or are  
20 used as a medium of exchange in this or another state, the United States or a  
21 foreign nation.

22 (b) "Precious metal bullion" means precious metal, including gold,  
23 silver, platinum, rhodium and palladium, which has been smelted or refined so  
24 that its value depends on its contents and not on its form.

25 22. ~~Motor vehicle fuel and use fuel which are subject to a tax imposed~~  
26 ~~under title 28, chapter 16, article 1, sales of use fuel to a holder of a~~  
27 ~~valid single trip use fuel tax permit issued under section 28-5739,~~ Sales of  
28 aviation fuel ~~which are~~ THAT IS subject to the tax imposed under section  
29 28-8344, ~~and~~ sales of jet fuel ~~which are~~ THAT IS subject to the tax imposed  
30 under article 8 of this chapter AND SALES OF OTHER FUEL THAT IS USED FOR THE  
31 PROPULSION OF MOTOR VEHICLES AND WATERCRAFT.

32 23. Tangible personal property sold to a person engaged in the business  
33 of leasing or renting such property under the personal property rental  
34 classification if such property is to be leased or rented by such person.

35 24. Tangible personal property sold in interstate or foreign commerce  
36 if prohibited from being so taxed by the Constitution of the United States or  
37 the constitution of this state.

38 25. Tangible personal property sold to:

39 (a) A qualifying hospital as defined in section 42-5001.

40 (b) A qualifying health care organization as defined in section  
41 42-5001 if the tangible personal property is used by the organization solely  
42 to provide health and medical related educational and charitable services.

43 (c) A qualifying health care organization as defined in section  
44 42-5001 if the organization is dedicated to providing educational,  
45 therapeutic, rehabilitative and family medical education training for blind,

1 visually impaired and multihandicapped children from the time of birth to age  
2 twenty-one.

3 (d) A qualifying community health center as defined in section  
4 42-5001.

5 (e) A nonprofit charitable organization that has qualified under  
6 section 501(c)(3) of the internal revenue code and that regularly serves  
7 meals to the needy and indigent on a continuing basis at no cost.

8 (f) For taxable periods beginning from and after June 30, 2001, a  
9 nonprofit charitable organization that has qualified under section 501(c)(3)  
10 of the internal revenue code and that provides residential apartment housing  
11 for low income persons over sixty-two years of age in a facility that  
12 qualifies for a federal housing subsidy, if the tangible personal property is  
13 used by the organization solely to provide residential apartment housing for  
14 low income persons over sixty-two years of age in a facility that qualifies  
15 for a federal housing subsidy.

16 26. Magazines or other periodicals or other publications by this state  
17 to encourage tourist travel.

18 27. Tangible personal property sold to a person that is subject to tax  
19 under this article by reason of being engaged in business classified under  
20 the prime contracting classification under section 42-5075, or to a  
21 subcontractor working under the control of a prime contractor that is subject  
22 to tax under article 1 of this chapter, if the property so sold is any of the  
23 following:

24 (a) Incorporated or fabricated by the person into any real property,  
25 structure, project, development or improvement as part of the business.

26 (b) Used in environmental response or remediation activities under  
27 section 42-5075, subsection B, paragraph 6.

28 (c) Incorporated or fabricated by the person into any lake facility  
29 development in a commercial enhancement reuse district under conditions  
30 prescribed for the deduction allowed by section 42-5075, subsection B,  
31 paragraph 8.

32 28. The sale of a motor vehicle to:

33 (a) A nonresident of this state if the purchaser's state of residence  
34 does not allow a corresponding use tax exemption to the tax imposed by  
35 article 1 of this chapter and if the nonresident has secured a special ninety  
36 day nonresident registration permit for the vehicle as prescribed by sections  
37 28-2154 and 28-2154.01.

38 (b) An enrolled member of an Indian tribe who resides on the Indian  
39 reservation established for that tribe.

40 29. Tangible personal property purchased in this state by a nonprofit  
41 charitable organization that has qualified under section 501(c)(3) of the  
42 United States internal revenue code and that engages in and uses such  
43 property exclusively in programs for mentally or physically handicapped  
44 persons if the programs are exclusively for training, job placement,  
45 rehabilitation or testing.

1           30. Sales of tangible personal property by a nonprofit organization  
2 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
3 of the internal revenue code if the organization is associated with a major  
4 league baseball team or a national touring professional golfing association  
5 and no part of the organization's net earnings inures to the benefit of any  
6 private shareholder or individual.

7           31. Sales of commodities, as defined by title 7 United States Code  
8 section 2, that are consigned for resale in a warehouse in this state in or  
9 from which the commodity is deliverable on a contract for future delivery  
10 subject to the rules of a commodity market regulated by the United States  
11 commodity futures trading commission.

12           32. Sales of tangible personal property by a nonprofit organization  
13 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
14 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
15 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
16 no part of the organization's net earnings inures to the benefit of any  
17 private shareholder or individual.

18           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
19 propagative material to persons who use those items to commercially produce  
20 agricultural, horticultural, viticultural or floricultural crops in this  
21 state.

22           34. Machinery, equipment, technology or related supplies that are only  
23 useful to assist a person who is physically disabled as defined in section  
24 46-191, has a developmental disability as defined in section 36-551 or has a  
25 head injury as defined in section 41-3201 to be more independent and  
26 functional.

27           35. Sales of tangible personal property that is shipped or delivered  
28 directly to a destination outside the United States for use in that foreign  
29 country.

30           36. Sales of natural gas or liquefied petroleum gas used to propel a  
31 motor vehicle.

32           37. Paper machine clothing, such as forming fabrics and dryer felts,  
33 sold to a paper manufacturer and directly used or consumed in paper  
34 manufacturing.

35           38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
36 sold to a qualified environmental technology manufacturer, producer or  
37 processor as defined in section 41-1514.02 and directly used or consumed in  
38 the generation or provision of on-site power or energy solely for  
39 environmental technology manufacturing, producing or processing or  
40 environmental protection. This paragraph shall apply for fifteen full  
41 consecutive calendar or fiscal years from the date the first paper  
42 manufacturing machine is placed in service. In the case of an environmental  
43 technology manufacturer, producer or processor who does not manufacture  
44 paper, the time period shall begin with the date the first manufacturing,  
45 processing or production equipment is placed in service.

1           39. Sales of liquid, solid or gaseous chemicals used in manufacturing,  
2 processing, fabricating, mining, refining, metallurgical operations, research  
3 and development and, beginning on January 1, 1999, printing, if using or  
4 consuming the chemicals, alone or as part of an integrated system of  
5 chemicals, involves direct contact with the materials from which the product  
6 is produced for the purpose of causing or permitting a chemical or physical  
7 change to occur in the materials as part of the production process. This  
8 paragraph does not include chemicals that are used or consumed in activities  
9 such as packaging, storage or transportation but does not affect any  
10 deduction for such chemicals that is otherwise provided by this section. For  
11 the purposes of this paragraph, "printing" means a commercial printing  
12 operation and includes job printing, engraving, embossing, copying and  
13 bookbinding.

14           40. Through December 31, 1994, personal property liquidation  
15 transactions, conducted by a personal property liquidator. From and after  
16 December 31, 1994, personal property liquidation transactions shall be  
17 taxable under this section provided that nothing in this subsection shall be  
18 construed to authorize the taxation of casual activities or transactions  
19 under this chapter. For the purposes of this paragraph:

20           (a) "Personal property liquidation transaction" means a sale of  
21 personal property made by a personal property liquidator acting solely on  
22 behalf of the owner of the personal property sold at the dwelling of the  
23 owner or upon the death of any owner, on behalf of the surviving spouse, if  
24 any, any devisee or heir or the personal representative of the estate of the  
25 deceased, if one has been appointed.

26           (b) "Personal property liquidator" means a person who is retained to  
27 conduct a sale in a personal property liquidation transaction.

28           41. Sales of food, drink and condiment for consumption within the  
29 premises of any prison, jail or other institution under the jurisdiction of  
30 the state department of corrections, the department of public safety, the  
31 department of juvenile corrections or a county sheriff.

32           42. A motor vehicle and any repair and replacement parts and tangible  
33 personal property becoming a part of such motor vehicle sold to a motor  
34 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
35 and who is engaged in the business of leasing or renting such property.

36           43. Livestock and poultry feed, salts, vitamins and other additives for  
37 livestock or poultry consumption that are sold to persons who are engaged in  
38 producing livestock, poultry, or livestock or poultry products or who are  
39 engaged in feeding livestock or poultry commercially. For the purposes of  
40 this paragraph, "poultry" includes ratites.

41           44. Sales of implants used as growth promotants and injectable  
42 medicines, not already exempt under paragraph 8 of this subsection, for  
43 livestock or poultry owned by or in possession of persons who are engaged in  
44 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of  
2 this paragraph, "poultry" includes ratites.

3 45. Sales of motor vehicles at auction to nonresidents of this state  
4 for use outside this state if the vehicles are shipped or delivered out of  
5 this state, regardless of where title to the motor vehicles passes or its  
6 free on board point.

7 46. Tangible personal property sold to a person engaged in business and  
8 subject to tax under the transient lodging classification if the tangible  
9 personal property is a personal hygiene item or articles used by human beings  
10 for food, drink or condiment, except alcoholic beverages, which are furnished  
11 without additional charge to and intended to be consumed by the transient  
12 during the transient's occupancy.

13 47. Sales of alternative fuel, as defined in section 1-215, to a used  
14 oil fuel burner who has received a permit to burn used oil or used oil fuel  
15 under section 49-426 or 49-480.

16 48. Sales of materials that are purchased by or for publicly funded  
17 libraries including school district libraries, charter school libraries,  
18 community college libraries, state university libraries or federal, state,  
19 county or municipal libraries for use by the public as follows:

20 (a) Printed or photographic materials, beginning August 7, 1985.

21 (b) Electronic or digital media materials, beginning July 17, 1994.

22 49. Tangible personal property sold to a commercial airline and  
23 consisting of food, beverages and condiments and accessories used for serving  
24 the food and beverages, if those items are to be provided without additional  
25 charge to passengers for consumption in flight. For the purposes of this  
26 paragraph, "commercial airline" means a person holding a federal certificate  
27 of public convenience and necessity or foreign air carrier permit for air  
28 transportation to transport persons, property or United States mail in  
29 intrastate, interstate or foreign commerce.

30 50. Sales of alternative fuel vehicles if the vehicle was manufactured  
31 as a diesel fuel vehicle and converted to operate on alternative fuel and  
32 equipment that is installed in a conventional diesel fuel motor vehicle to  
33 convert the vehicle to operate on an alternative fuel, as defined in section  
34 1-215.

35 51. Sales of any spirituous, vinous or malt liquor by a person that is  
36 licensed in this state as a wholesaler by the department of liquor licenses  
37 and control pursuant to title 4, chapter 2, article 1.

38 52. Sales of tangible personal property to be incorporated or installed  
39 as part of environmental response or remediation activities under section  
40 42-5075, subsection B, paragraph 6.

41 53. Sales of tangible personal property by a nonprofit organization  
42 that is exempt from taxation under section 501(c)(6) of the internal revenue  
43 code if the organization produces, organizes or promotes cultural or civic  
44 related festivals or events and no part of the organization's net earnings  
45 inures to the benefit of any private shareholder or individual.

1           54. Through August 31, 2014, sales of Arizona centennial medallions by  
2 the historical advisory commission.

3           55. Application services that are designed to assess or test student  
4 learning or to promote curriculum design or enhancement purchased by or for  
5 any school district, charter school, community college or state university.  
6 For the purposes of this paragraph:

7           (a) "Application services" means software applications provided  
8 remotely using hypertext transfer protocol or another network protocol.

9           (b) "Curriculum design or enhancement" means planning, implementing or  
10 reporting on courses of study, lessons, assignments or other learning  
11 activities.

12           B. In addition to the deductions from the tax base prescribed by  
13 subsection A of this section, the gross proceeds of sales or gross income  
14 derived from sales of the following categories of tangible personal property  
15 shall be deducted from the tax base:

16           1. Machinery, or equipment, used directly in manufacturing,  
17 processing, fabricating, job printing, refining or metallurgical operations.  
18 The terms "manufacturing", "processing", "fabricating", "job printing",  
19 "refining" and "metallurgical" as used in this paragraph refer to and include  
20 those operations commonly understood within their ordinary meaning.  
21 "Metallurgical operations" includes leaching, milling, precipitating,  
22 smelting and refining.

23           2. Mining machinery, or equipment, used directly in the process of  
24 extracting ores or minerals from the earth for commercial purposes, including  
25 equipment required to prepare the materials for extraction and handling,  
26 loading or transporting such extracted material to the surface. "Mining"  
27 includes underground, surface and open pit operations for extracting ores and  
28 minerals.

29           3. Tangible personal property sold to persons engaged in business  
30 classified under the telecommunications classification and consisting of  
31 central office switching equipment, switchboards, private branch exchange  
32 equipment, microwave radio equipment and carrier equipment including optical  
33 fiber, coaxial cable and other transmission media which are components of  
34 carrier systems.

35           4. Machinery, equipment or transmission lines used directly in  
36 producing or transmitting electrical power, but not including distribution.  
37 Transformers and control equipment used at transmission substation sites  
38 constitute equipment used in producing or transmitting electrical power.

39           5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
40 to be used as breeding or production stock, including sales of breedings or  
41 ownership shares in such animals used for breeding or production.

42           6. Pipes or valves four inches in diameter or larger used to transport  
43 oil, natural gas, artificial gas, water or coal slurry, including compressor  
44 units, regulators, machinery and equipment, fittings, seals and any other  
45 part that is used in operating the pipes or valves.

1           7. Aircraft, navigational and communication instruments and other  
2 accessories and related equipment sold to:

3           (a) A person holding a federal certificate of public convenience and  
4 necessity, a supplemental air carrier certificate under federal aviation  
5 regulations (14 Code of Federal Regulations part 121) or a foreign air  
6 carrier permit for air transportation for use as or in conjunction with or  
7 becoming a part of aircraft to be used to transport persons, property or  
8 United States mail in intrastate, interstate or foreign commerce.

9           (b) Any foreign government for use by such government outside of this  
10 state.

11           (c) Persons who are not residents of this state and who will not use  
12 such property in this state other than in removing such property from this  
13 state. This subdivision also applies to corporations that are not  
14 incorporated in this state, regardless of maintaining a place of business in  
15 this state, if the principal corporate office is located outside this state  
16 and the property will not be used in this state other than in removing the  
17 property from this state.

18           8. Machinery, tools, equipment and related supplies used or consumed  
19 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
20 or aircraft component parts by or on behalf of a certificated or licensed  
21 carrier of persons or property.

22           9. Railroad rolling stock, rails, ties and signal control equipment  
23 used directly to transport persons or property.

24           10. Machinery or equipment used directly to drill for oil or gas or  
25 used directly in the process of extracting oil or gas from the earth for  
26 commercial purposes.

27           11. Buses or other urban mass transit vehicles which are used directly  
28 to transport persons or property for hire or pursuant to a governmentally  
29 adopted and controlled urban mass transportation program and which are sold  
30 to bus companies holding a federal certificate of convenience and necessity  
31 or operated by any city, town or other governmental entity or by any person  
32 contracting with such governmental entity as part of a governmentally adopted  
33 and controlled program to provide urban mass transportation.

34           12. Groundwater measuring devices required under section 45-604.

35           13. New machinery and equipment consisting of tractors, tractor-drawn  
36 implements, self-powered implements, machinery and equipment necessary for  
37 extracting milk, and machinery and equipment necessary for cooling milk and  
38 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
39 this subsection and that are used for commercial production of agricultural,  
40 horticultural, viticultural and floricultural crops and products in this  
41 state. For the purposes of this paragraph:

42           (a) "New machinery and equipment" means machinery and equipment which  
43 have never been sold at retail except pursuant to leases or rentals which do  
44 not total two years or more.

1 (b) "Self-powered implements" includes machinery and equipment that  
2 are electric-powered.

3 14. Machinery or equipment used in research and development. For the  
4 purposes of this paragraph, "research and development" means basic and  
5 applied research in the sciences and engineering, and designing, developing  
6 or testing prototypes, processes or new products, including research and  
7 development of computer software that is embedded in or an integral part of  
8 the prototype or new product or that is required for machinery or equipment  
9 otherwise exempt under this section to function effectively. Research and  
10 development do not include manufacturing quality control, routine consumer  
11 product testing, market research, sales promotion, sales service, research in  
12 social sciences or psychology, computer software research that is not  
13 included in the definition of research and development, or other  
14 nontechnological activities or technical services.

15 15. Machinery and equipment that are purchased by or on behalf of the  
16 owners of a soundstage complex and primarily used for motion picture,  
17 multimedia or interactive video production in the complex. This paragraph  
18 applies only if the initial construction of the soundstage complex begins  
19 after June 30, 1996 and before January 1, 2002 and the machinery and  
20 equipment are purchased before the expiration of five years after the start  
21 of initial construction. For the purposes of this paragraph:

22 (a) "Motion picture, multimedia or interactive video production"  
23 includes products for theatrical and television release, educational  
24 presentations, electronic retailing, documentaries, music videos, industrial  
25 films, CD-ROM, video game production, commercial advertising and television  
26 episode production and other genres that are introduced through developing  
27 technology.

28 (b) "Soundstage complex" means a facility of multiple stages including  
29 production offices, construction shops and related areas, prop and costume  
30 shops, storage areas, parking for production vehicles and areas that are  
31 leased to businesses that complement the production needs and orientation of  
32 the overall facility.

33 16. Tangible personal property that is used by either of the following  
34 to receive, store, convert, produce, generate, decode, encode, control or  
35 transmit telecommunications information:

36 (a) Any direct broadcast satellite television or data transmission  
37 service that operates pursuant to 47 Code of Federal Regulations part 25.

38 (b) Any satellite television or data transmission facility, if both of  
39 the following conditions are met:

40 (i) Over two-thirds of the transmissions, measured in megabytes,  
41 transmitted by the facility during the test period were transmitted to or on  
42 behalf of one or more direct broadcast satellite television or data  
43 transmission services that operate pursuant to 47 Code of Federal Regulations  
44 part 25.

1 (ii) Over two-thirds of the transmissions, measured in megabytes,  
2 transmitted by or on behalf of those direct broadcast television or data  
3 transmission services during the test period were transmitted by the facility  
4 to or on behalf of those services.

5 For the purposes of subdivision (b) of this paragraph, "test period" means  
6 the three hundred sixty-five day period beginning on the later of the date on  
7 which the tangible personal property is purchased or the date on which the  
8 direct broadcast satellite television or data transmission service first  
9 transmits information to its customers.

10 17. Clean rooms that are used for manufacturing, processing,  
11 fabrication or research and development, as defined in paragraph 14 of this  
12 subsection, of semiconductor products. For the purposes of this paragraph,  
13 "clean room" means all property that comprises or creates an environment  
14 where humidity, temperature, particulate matter and contamination are  
15 precisely controlled within specified parameters, without regard to whether  
16 the property is actually contained within that environment or whether any of  
17 the property is affixed to or incorporated into real property. Clean room:

18 (a) Includes the integrated systems, fixtures, piping, movable  
19 partitions, lighting and all property that is necessary or adapted to reduce  
20 contamination or to control airflow, temperature, humidity, chemical purity  
21 or other environmental conditions or manufacturing tolerances, as well as the  
22 production machinery and equipment operating in conjunction with the clean  
23 room environment.

24 (b) Does not include the building or other permanent, nonremovable  
25 component of the building that houses the clean room environment.

26 18. Machinery and equipment used directly in the feeding of poultry,  
27 the environmental control of housing for poultry, the movement of eggs within  
28 a production and packaging facility or the sorting or cooling of eggs. This  
29 exemption does not apply to vehicles used for transporting eggs.

30 19. Machinery or equipment, including related structural components,  
31 that is employed in connection with manufacturing, processing, fabricating,  
32 job printing, refining, mining, natural gas pipelines, metallurgical  
33 operations, telecommunications, producing or transmitting electricity or  
34 research and development and that is used directly to meet or exceed rules or  
35 regulations adopted by the federal energy regulatory commission, the United  
36 States environmental protection agency, the United States nuclear regulatory  
37 commission, the Arizona department of environmental quality or a political  
38 subdivision of this state to prevent, monitor, control or reduce land, water  
39 or air pollution.

40 20. Machinery and equipment that are sold to a person engaged in the  
41 commercial production of livestock, livestock products or agricultural,  
42 horticultural, viticultural or floricultural crops or products in this state  
43 and that are used directly and primarily to prevent, monitor, control or  
44 reduce air, water or land pollution.

1           21. Machinery or equipment that enables a television station to  
2 originate and broadcast or to receive and broadcast digital television  
3 signals and that was purchased to facilitate compliance with the  
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
5 Code section 336) and the federal communications commission order issued  
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
7 not exempt any of the following:

8           (a) Repair or replacement parts purchased for the machinery or  
9 equipment described in this paragraph.

10           (b) Machinery or equipment purchased to replace machinery or equipment  
11 for which an exemption was previously claimed and taken under this paragraph.

12           (c) Any machinery or equipment purchased after the television station  
13 has ceased analog broadcasting, or purchased after November 1, 2009,  
14 whichever occurs first.

15           22. Qualifying equipment that is purchased from and after June 30, 2004  
16 through June 30, 2014 by a qualified business under section 41-1516 for  
17 harvesting or the initial processing of qualifying forest products removed  
18 from qualifying projects as defined in section 41-1516. To qualify for this  
19 deduction, the qualified business at the time of purchase must present its  
20 certification approved by the department.

21           23. Machinery, equipment and other tangible personal property used  
22 directly in motion picture production by a motion picture production company.  
23 To qualify for this deduction, at the time of purchase, the motion picture  
24 production company must present to the retailer its certificate that is  
25 issued pursuant to section 42-5009, subsection H and that establishes its  
26 qualification for the deduction.

27           C. The deductions provided by subsection B of this section do not  
28 include sales of:

29           1. Expendable materials. For the purposes of this paragraph,  
30 expendable materials do not include any of the categories of tangible  
31 personal property specified in subsection B of this section regardless of the  
32 cost or useful life of that property.

33           2. Janitorial equipment and hand tools.

34           3. Office equipment, furniture and supplies.

35           4. Tangible personal property used in selling or distributing  
36 activities, other than the telecommunications transmissions described in  
37 subsection B, paragraph 16 of this section.

38           5. Motor vehicles required to be licensed by this state, except buses  
39 or other urban mass transit vehicles specifically exempted pursuant to  
40 subsection B, paragraph 11 of this section, without regard to the use of such  
41 motor vehicles.

42           6. Shops, buildings, docks, depots and all other materials of whatever  
43 kind or character not specifically included as exempt.

44           7. Motors and pumps used in drip irrigation systems.

1 D. In addition to the deductions from the tax base prescribed by  
2 subsection A of this section, there shall be deducted from the tax base the  
3 gross proceeds of sales or gross income derived from sales of machinery,  
4 equipment, materials and other tangible personal property used directly and  
5 predominantly to construct a qualified environmental technology  
6 manufacturing, producing or processing facility as described in section  
7 41-1514.02. This subsection applies for ten full consecutive calendar or  
8 fiscal years after the start of initial construction.

9 E. In computing the tax base, gross proceeds of sales or gross income  
10 from retail sales of heavy trucks and trailers does not include any amount  
11 attributable to federal excise taxes imposed by 26 United States Code section  
12 4051.

13 F. In computing the tax base, gross proceeds of sales or gross income  
14 from the sale of use fuel, ~~as defined in section 28-5601~~, does not include  
15 any amount attributable to federal excise taxes imposed by 26 United States  
16 Code section 4091.

17 G. If a person is engaged in an occupation or business to which  
18 subsection A of this section applies, the person's books shall be kept so as  
19 to show separately the gross proceeds of sales of tangible personal property  
20 and the gross income from sales of services, and if not so kept the tax shall  
21 be imposed on the total of the person's gross proceeds of sales of tangible  
22 personal property and gross income from services.

23 H. If a person is engaged in the business of selling tangible personal  
24 property at both wholesale and retail, the tax under this section applies  
25 only to the gross proceeds of the sales made other than at wholesale if the  
26 person's books are kept so as to show separately the gross proceeds of sales  
27 of each class, and if the books are not so kept, the tax under this section  
28 applies to the gross proceeds of every sale so made.

29 I. A person who engages in manufacturing, baling, crating, boxing,  
30 barreling, canning, bottling, sacking, preserving, processing or otherwise  
31 preparing for sale or commercial use any livestock, agricultural or  
32 horticultural product or any other product, article, substance or commodity  
33 and who sells the product of such business at retail in this state is deemed,  
34 as to such sales, to be engaged in business classified under the retail  
35 classification. This subsection does not apply to businesses classified  
36 under the:

- 37 1. Transporting classification.
- 38 2. Utilities classification.
- 39 3. Telecommunications classification.
- 40 4. Pipeline classification.
- 41 5. Private car line classification.
- 42 6. Publication classification.
- 43 7. Job printing classification.
- 44 8. Prime contracting classification.
- 45 9. Owner builder sales classification.

1           10. Restaurant classification.  
2           J. The gross proceeds of sales or gross income derived from the  
3 following shall be deducted from the tax base for the retail classification:  
4           1. Sales made directly to the United States government or its  
5 departments or agencies by a manufacturer, modifier, assembler or repairer.  
6           2. Sales made directly to a manufacturer, modifier, assembler or  
7 repairer if such sales are of any ingredient or component part of products  
8 sold directly to the United States government or its departments or agencies  
9 by the manufacturer, modifier, assembler or repairer.  
10          3. Overhead materials or other tangible personal property that is used  
11 in performing a contract between the United States government and a  
12 manufacturer, modifier, assembler or repairer, including property used in  
13 performing a subcontract with a government contractor who is a manufacturer,  
14 modifier, assembler or repairer, to which title passes to the government  
15 under the terms of the contract or subcontract.  
16          4. Sales of overhead materials or other tangible personal property to  
17 a manufacturer, modifier, assembler or repairer if the gross proceeds of  
18 sales or gross income derived from the property by the manufacturer,  
19 modifier, assembler or repairer will be exempt under paragraph 3 of this  
20 subsection.  
21          K. There shall be deducted from the tax base fifty per cent of the  
22 gross proceeds or gross income from any sale of tangible personal property  
23 made directly to the United States government or its departments or agencies,  
24 which is not deducted under subsection J of this section.  
25          L. The department shall require every person claiming a deduction  
26 provided by subsection J or K of this section to file on forms prescribed by  
27 the department at such times as the department directs a sworn statement  
28 disclosing the name of the purchaser and the exact amount of sales on which  
29 the exclusion or deduction is claimed.  
30          M. In computing the tax base, gross proceeds of sales or gross income  
31 does not include:  
32           1. A manufacturer's cash rebate on the sales price of a motor vehicle  
33 if the buyer assigns the buyer's right in the rebate to the retailer.  
34           2. The waste tire disposal fee imposed pursuant to section 44-1302.  
35          N. There shall be deducted from the tax base the amount received from  
36 sales of solar energy devices. The retailer shall register with the  
37 department as a solar energy retailer. By registering, the retailer  
38 acknowledges that it will make its books and records relating to sales of  
39 solar energy devices available to the department for examination.  
40          O. In computing the tax base in the case of the sale or transfer of  
41 wireless telecommunications equipment as an inducement to a customer to enter  
42 into or continue a contract for telecommunications services that are taxable  
43 under section 42-5064, gross proceeds of sales or gross income does not  
44 include any sales commissions or other compensation received by the retailer

1 as a result of the customer entering into or continuing a contract for the  
2 telecommunications services.

3 P. For the purposes of this section, a sale of wireless  
4 telecommunications equipment to a person who holds the equipment for sale or  
5 transfer to a customer as an inducement to enter into or continue a contract  
6 for telecommunications services that are taxable under section 42-5064 is  
7 considered to be a sale for resale in the regular course of business.

8 Q. Retail sales of prepaid calling cards or prepaid authorization  
9 numbers for telecommunications services, including sales of reauthorization  
10 of a prepaid card or authorization number, are subject to tax under this  
11 section.

12 R. For the purposes of this section, the diversion of gas from a  
13 pipeline by a person engaged in the business of:

14 1. Operating a natural or artificial gas pipeline, for the sole  
15 purpose of fueling compressor equipment to pressurize the pipeline, is not a  
16 sale of the gas to the operator of the pipeline.

17 2. Converting natural gas into liquefied natural gas, for the sole  
18 purpose of fueling compressor equipment used in the conversion process, is  
19 not a sale of gas to the operator of the compressor equipment.

20 S. If a seller is entitled to a deduction pursuant to subsection B,  
21 paragraph 16, subdivision (b) of this section, the department may require the  
22 purchaser to establish that the requirements of subsection B, paragraph 16,  
23 subdivision (b) of this section have been satisfied. If the purchaser cannot  
24 establish that the requirements of subsection B, paragraph 16, subdivision  
25 (b) of this section have been satisfied, the purchaser is liable in an amount  
26 equal to any tax, penalty and interest which the seller would have been  
27 required to pay under article 1 of this chapter if the seller had not made a  
28 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this  
29 section. Payment of the amount under this subsection exempts the purchaser  
30 from liability for any tax imposed under article 4 of this chapter and  
31 related to the tangible personal property purchased. The amount shall be  
32 treated as transaction privilege tax to the purchaser and as tax revenues  
33 collected from the seller to designate the distribution base pursuant to  
34 section 42-5029.

35 T. For the purposes of section 42-5032.01, the department shall  
36 separately account for revenues collected under the retail classification  
37 from businesses selling tangible personal property at retail:

38 1. On the premises of a multipurpose facility that is owned, leased or  
39 operated by the tourism and sports authority pursuant to title 5, chapter 8.

40 2. At professional football contests that are held in a stadium  
41 located on the campus of an institution under the jurisdiction of the Arizona  
42 board of regents.

43 U. In computing the tax base for the sale of a motor vehicle to a  
44 nonresident of this state, if the purchaser's state of residence allows a  
45 corresponding use tax exemption to the tax imposed by article 1 of this

1 chapter and the rate of the tax in the purchaser's state of residence is  
2 lower than the rate prescribed in article 1 of this chapter or if the  
3 purchaser's state of residence does not impose an excise tax, and the  
4 nonresident has secured a special ninety day nonresident registration permit  
5 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall  
6 be deducted from the tax base a portion of the gross proceeds or gross income  
7 from the sale so that the amount of transaction privilege tax that is paid in  
8 this state is equal to the excise tax that is imposed by the purchaser's  
9 state of residence on the nonexempt sale or use of the motor vehicle.

10 V. For the purposes of this section:

11 1. "Aircraft" includes:

12 (a) An airplane flight simulator that is approved by the federal  
13 aviation administration for use as a phase II or higher flight simulator  
14 under appendix H, 14 Code of Federal Regulations part 121.

15 (b) Tangible personal property that is permanently affixed or attached  
16 as a component part of an aircraft that is owned or operated by a  
17 certificated or licensed carrier of persons or property.

18 2. "Other accessories and related equipment" includes aircraft  
19 accessories and equipment such as ground service equipment that physically  
20 contact aircraft at some point during the overall carrier operation.

21 3. "Selling at retail" means a sale for any purpose other than for  
22 resale in the regular course of business in the form of tangible personal  
23 property, but transfer of possession, lease and rental as used in the  
24 definition of sale mean only such transactions as are found on investigation  
25 to be in lieu of sales as defined without the words lease or rental.

26 W. For the purposes of subsection J of this section:

27 1. "Assembler" means a person who unites or combines products, wares  
28 or articles of manufacture so as to produce a change in form or substance  
29 without changing or altering the component parts.

30 2. "Manufacturer" means a person who is principally engaged in the  
31 fabrication, production or manufacture of products, wares or articles for use  
32 from raw or prepared materials, imparting to those materials new forms,  
33 qualities, properties and combinations.

34 3. "Modifier" means a person who reworks, changes or adds to products,  
35 wares or articles of manufacture.

36 4. "Overhead materials" means tangible personal property, the gross  
37 proceeds of sales or gross income derived from which would otherwise be  
38 included in the retail classification, and which are used or consumed in the  
39 performance of a contract, the cost of which is charged to an overhead  
40 expense account and allocated to various contracts based upon generally  
41 accepted accounting principles and consistent with government contract  
42 accounting standards.

43 5. "Repairer" means a person who restores or renews products, wares or  
44 articles of manufacture.

1           6. "Subcontract" means an agreement between a contractor and any  
2 person who is not an employee of the contractor for furnishing of supplies or  
3 services that, in whole or in part, are necessary to the performance of one  
4 or more government contracts, or under which any portion of the contractor's  
5 obligation under one or more government contracts is performed, undertaken or  
6 assumed and that includes provisions causing title to overhead materials or  
7 other tangible personal property used in the performance of the subcontract  
8 to pass to the government or that includes provisions incorporating such  
9 title passing clauses in a government contract into the subcontract.

10           Sec. 48. Section 42-5071, Arizona Revised Statutes, is amended to  
11 read:

12           42-5071. Personal property rental classification

13           A. The personal property rental classification is comprised of the  
14 business of leasing or renting tangible personal property for a  
15 consideration. The tax does not apply to:

16           1. Leasing or renting films, tapes or slides used by theaters or  
17 movies, which are engaged in business under the amusement classification, or  
18 used by television stations or radio stations.

19           2. Activities engaged in by the Arizona exposition and state fair  
20 board or county fair commissions in connection with events sponsored by such  
21 entities.

22           3. Leasing or renting tangible personal property by a parent  
23 corporation to a subsidiary corporation or by a subsidiary corporation to  
24 another subsidiary of the same parent corporation if taxes were paid under  
25 this chapter on the gross proceeds or gross income accruing from the initial  
26 sale of the tangible personal property. For the purposes of this paragraph,  
27 "subsidiary" means a corporation of which at least eighty per cent of the  
28 voting shares are owned by the parent corporation.

29           4. Operating coin operated washing, drying and dry cleaning machines  
30 or coin operated car washing machines at establishments for the use of such  
31 machines.

32           5. Leasing or renting tangible personal property for incorporation  
33 into or comprising any part of a qualified environmental technology facility  
34 as described in section 41-1514.02. This paragraph shall apply for ten full  
35 consecutive calendar or fiscal years following the initial lease or rental by  
36 each qualified environmental technology manufacturer, producer or processor.

37           6. Leasing or renting aircraft, flight simulators or similar training  
38 equipment to students or staff by nonprofit, accredited educational  
39 institutions that offer associate or baccalaureate degrees in aviation or  
40 aerospace related fields.

41           7. Leasing or renting photographs, transparencies or other creative  
42 works used by this state on internet web sites, in magazines or in other  
43 publications that encourage tourism.

44           B. The tax base for the personal property rental classification is the  
45 gross proceeds of sales or gross income derived from the business, but the

1 gross proceeds of sales or gross income derived from the following shall be  
2 deducted from the tax base:

3 1. Reimbursements by the lessee to the lessor of a motor vehicle for  
4 payments by the lessor of the applicable fees and taxes imposed by sections  
5 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
6 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
7 such amounts are separately identified as such fees and taxes and are billed  
8 to the lessee.

9 2. Leases or rentals of tangible personal property which, if it had  
10 been purchased instead of leased or rented by the lessee, would have been  
11 exempt under:

12 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50  
13 or 55.

14 (b) Section 42-5061, subsection B, except that a lease or rental of  
15 new machinery or equipment is not exempt pursuant to:

16 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for  
17 less than two years.

18 (ii) Section 42-5061, subsection B, paragraph 22 if the lease is for  
19 less than five years.

20 (c) Section 42-5061, subsection J, paragraph 1.

21 (d) Section 42-5061, subsection N.

22 3. ~~Motor vehicle fuel and use fuel that are subject to a tax imposed~~  
23 ~~under title 28, chapter 16, article 1, sales of use fuel to a holder of a~~  
24 ~~valid single trip use fuel tax permit issued under section 28-5739 and~~ Sales  
25 of aviation fuel that are IS subject to the tax imposed under section 28-8344  
26 AND OTHER FUEL THAT IS USED FOR THE PROPULSION OF MOTOR VEHICLES AND  
27 WATERCRAFT.

28 4. Leasing or renting a motor vehicle subject to and upon which the  
29 fee has been paid under title 28, chapter 16, article 4.

30 5. Amounts received by a motor vehicle dealer for the first month of a  
31 lease payment if the lease and the lease payment for the first month of the  
32 lease are transferred to a third party leasing company.

33 C. Sales of tangible personal property to be leased or rented to a  
34 person engaged in a business classified under the personal property rental  
35 classification are deemed to be resale sales.

36 D. In computing the tax base, the gross proceeds of sales or gross  
37 income from the lease or rental of a motor vehicle does not include any  
38 amount attributable to the car rental surcharge under section 28-5810 or  
39 48-4234.

40 E. Until December 31, 1988, leasing or renting animals for  
41 recreational purposes is exempt from the tax imposed by this section.  
42 Beginning January 1, 1989, the gross proceeds or gross income from leasing or  
43 renting animals for recreational purposes is subject to taxation under this  
44 section. Tax liabilities, penalties and interest paid for taxable periods  
45 before January 1, 1989 shall not be refunded unless the taxpayer requesting

1 the refund provides proof satisfactory to the department that the monies paid  
2 as taxes will be returned to the customer.

3 Sec. 49. Section 42-5151, Arizona Revised Statutes, is amended to  
4 read:

5 42-5151. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Ancillary services" means those services so designated in federal  
8 energy regulatory commission order 888 adopted in 1996 that include the  
9 services necessary to support the transmission of electricity from resources  
10 to loads while maintaining reliable operation of the transmission system  
11 according to good utility practice.

12 2. "Electric distribution service" means distributing electricity to  
13 retail electric customers through the use of electric distribution  
14 facilities.

15 3. "Electric generation service" means providing electricity for sale  
16 to retail electric customers but excluding electric distribution or  
17 transmission services.

18 4. "Electric transmission service" means transmitting electricity to  
19 retail electric customers or to electric distribution facilities so  
20 classified by the federal energy regulatory commission or, to the extent  
21 permitted by law, so classified by the Arizona corporation commission.

22 5. "Electric utility services" means the business of providing  
23 electric ancillary services, electric distribution services, electric  
24 generation services, electric transmission services and other services  
25 related to providing electricity.

26 6. "Electricity" means electric energy, electric capacity or electric  
27 capacity and energy.

28 7. "Electricity supplier" means a person, whether acting in a  
29 principal, agent or other capacity, that offers to sell electricity to a  
30 retail electric customer in this state.

31 8. "Natural gas" means natural or artificial gas, and includes methane  
32 and propane gas, the natural gas commodity, natural gas pipeline capacity or  
33 natural gas commodity and pipeline capacity.

34 9. "Natural gas utility services" means the business of selling  
35 natural gas or providing natural gas transportation services or other  
36 services related to providing natural gas.

37 10. "Notice" means written notice served personally or by certified  
38 mail and addressed to the last known address of the person to whom such  
39 notice is given.

40 11. "Other services" includes metering, meter reading services, billing  
41 and collecting services.

42 12. "Person" means an individual, firm, partnership, joint venture,  
43 association, corporation, estate, trust, receiver or syndicate, this state or  
44 a county, city, municipality, district or other political subdivision or  
45 agency thereof.

1           13. "Purchase" means any transfer, exchange or barter, conditional or  
2 otherwise, in any manner or by any means, of tangible personal property for a  
3 consideration, including transactions by which the possession of property is  
4 transferred but the seller retains the title as security for payment.

5           14. "Purchase price" or "sales price" means the total amount for which  
6 tangible personal property is sold, including any services that are a part of  
7 the sale, valued in money, whether paid in money or otherwise, and any amount  
8 for which credit is given to the purchaser by the seller without any  
9 deduction on account of the cost of the property sold, materials used, labor  
10 or services performed, interest charged, losses or other expenses, but does  
11 not include:

12           (a) Discounts allowed and taken.

13           (b) Charges for labor or services in installing, remodeling or  
14 repairing.

15           (c) Freight costs billed to and collected from a purchaser by a  
16 retailer for tangible personal property which, on the order of the retailer,  
17 is shipped directly from a manufacturer or wholesaler to the purchaser.

18           (d) Amounts attributable to federal excise taxes imposed by 26 United  
19 States Code section 4001, 4051 or 4081 on sales of heavy trucks and trailers  
20 and automobiles or on sales of use fuel, ~~as defined in section 28-5601.~~

21           (e) The value of merchandise that is traded in on the purchase of new  
22 or pre-owned merchandise when the trade-in allowance is deducted from the  
23 sales price of the new or pre-owned merchandise before the completion of the  
24 sale.

25           15. "Retail electric customer" means a person who purchases electricity  
26 for that person's own use, including use in that person's trade or business,  
27 and not for resale, redistribution or retransmission.

28           16. "Retail natural gas customer" means a person who purchases natural  
29 gas for that person's own use, including use in that person's trade or  
30 business, and not for resale, redistribution or retransmission.

31           17. "Retailer" includes:

32           (a) Every person engaged in the business of making sales of tangible  
33 personal property for storage, use or other consumption or in the business of  
34 making sales at auction of tangible personal property owned by that person or  
35 others for storage, use or other consumption. If in the opinion of the  
36 department it is necessary for the efficient administration of this article  
37 to regard any salesmen, representatives, peddlers or canvassers as the agents  
38 of the dealers, distributors, supervisors or employers under whom they  
39 operate or from whom they obtain the tangible personal property sold by them,  
40 regardless of whether they are making sales on their own behalf or on behalf  
41 of such dealers, distributors, supervisors or employers, the department may  
42 so regard them and may regard the dealers, distributors, supervisors or  
43 employers as retailers for purposes of this article.

44           (b) A person who solicits orders for tangible personal property by  
45 mail if the solicitations are substantial and recurring or if the retailer

1 benefits from any banking, financing, debt collection, telecommunication,  
2 television shopping system, cable, optic, microwave or other communication  
3 system or marketing activities occurring in this state or benefits from the  
4 location in this state of authorized installation, servicing or repair  
5 facilities.

6 18. "Solar daylighting" means a device that is specifically designed to  
7 capture and redirect the visible portion of the solar beam, while controlling  
8 the infrared portion, for use in illuminating interior building spaces in  
9 lieu of artificial lighting.

10 19. "Solar energy device" means a system or series of mechanisms  
11 designed primarily to provide heating, to provide cooling, to produce  
12 electrical power, to produce mechanical power, to provide solar daylighting  
13 or to provide any combination of the foregoing by means of collecting and  
14 transferring solar generated energy into such uses by either active or  
15 passive means, including wind generator systems that produce electricity.  
16 Solar energy systems may also have the capability of storing solar energy for  
17 future use. Passive systems shall clearly be designed as a solar energy  
18 device, such as a trombe wall, and not merely as a part of a normal  
19 structure, such as a window.

20 20. "Storage" means keeping or retaining tangible personal property  
21 purchased from a retailer for any purpose except sale in the regular course  
22 of business or subsequent use solely outside this state.

23 21. "Taxpayer" means any retailer or person storing, using or consuming  
24 tangible personal property the storage, use or consumption of which is  
25 subject to the tax imposed by this article when such tax was not paid to a  
26 retailer.

27 22. "Use or consumption" means the exercise of any right or power over  
28 tangible personal property incidental to owning the property except holding  
29 for sale or selling the property in the regular course of business.

30 23. "Utility business" means a person that is engaged in the business  
31 of providing electric utility services to retail electric customers or  
32 natural gas utility services to retail natural gas customers.

33 Sec. 50. Section 42-5159, Arizona Revised Statutes, is amended to  
34 read:

35 42-5159. Exemptions

36 A. The tax levied by this article does not apply to the storage, use  
37 or consumption in this state of the following described tangible personal  
38 property:

39 1. Tangible personal property sold in this state, the gross receipts  
40 from the sale of which are included in the measure of the tax imposed by  
41 articles 1 and 2 of this chapter.

42 2. Tangible personal property the sale or use of which has already  
43 been subjected to an excise tax at a rate equal to or exceeding the tax  
44 imposed by this article under the laws of another state of the United States.  
45 If the excise tax imposed by the other state is at a rate less than the tax

1 imposed by this article, the tax imposed by this article is reduced by the  
2 amount of the tax already imposed by the other state.

3 3. Tangible personal property, the storage, use or consumption of  
4 which the constitution or laws of the United States prohibit this state from  
5 taxing or to the extent that the rate or imposition of tax is  
6 unconstitutional under the laws of the United States.

7 4. Tangible personal property which directly enters into and becomes  
8 an ingredient or component part of any manufactured, fabricated or processed  
9 article, substance or commodity for sale in the regular course of business.

10 5. ~~Motor vehicle fuel and use fuel, the sales, distribution or use of~~  
11 ~~which in this state is subject to the tax imposed under title 28, chapter 16,~~  
12 ~~article 1, use fuel which is sold to or used by a person holding a valid~~  
13 ~~single trip use fuel tax permit issued under section 28-5739,~~ Aviation fuel,  
14 the sales, distribution or use of which in this state is subject to the tax  
15 imposed under section 28-8344, and jet fuel, the sales, distribution or use  
16 of which in this state is subject to the tax imposed under article 8 of this  
17 chapter, AND OTHER FUEL THAT IS USED FOR THE PROPULSION OF MOTOR VEHICLES AND  
18 WATERCRAFT.

19 6. Tangible personal property brought into this state by an individual  
20 who was a nonresident at the time the property was purchased for storage, use  
21 or consumption by the individual if the first actual use or consumption of  
22 the property was outside this state, unless the property is used in  
23 conducting a business in this state.

24 7. Purchases of implants used as growth promotants and injectable  
25 medicines, not already exempt under paragraph 16 of this subsection, for  
26 livestock and poultry owned by, or in possession of, persons who are engaged  
27 in producing livestock, poultry, or livestock or poultry products, or who are  
28 engaged in feeding livestock or poultry commercially. For the purposes of  
29 this paragraph, "poultry" includes ratites.

30 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
31 additives for use or consumption in the businesses of farming, ranching and  
32 feeding livestock or poultry, not including fertilizers, herbicides and  
33 insecticides. For the purposes of this paragraph, "poultry" includes  
34 ratites.

35 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
36 material for use in commercially producing agricultural, horticultural,  
37 viticultural or floricultural crops in this state.

38 10. Tangible personal property not exceeding two hundred dollars in any  
39 one month purchased by an individual at retail outside the continental limits  
40 of the United States for the individual's own personal use and enjoyment.

41 11. Advertising supplements which are intended for sale with newspapers  
42 published in this state and which have already been subjected to an excise  
43 tax under the laws of another state in the United States which equals or  
44 exceeds the tax imposed by this article.

1           12. Materials that are purchased by or for publicly funded libraries  
2 including school district libraries, charter school libraries, community  
3 college libraries, state university libraries or federal, state, county or  
4 municipal libraries for use by the public as follows:

5           (a) Printed or photographic materials, beginning August 7, 1985.

6           (b) Electronic or digital media materials, beginning July 17, 1994.

7           13. Tangible personal property purchased by:

8           (a) A hospital organized and operated exclusively for charitable  
9 purposes, no part of the net earnings of which inures to the benefit of any  
10 private shareholder or individual.

11           (b) A hospital operated by this state or a political subdivision of  
12 this state.

13           (c) A licensed nursing care institution or a licensed residential care  
14 institution or a residential care facility operated in conjunction with a  
15 licensed nursing care institution or a licensed kidney dialysis center, which  
16 provides medical services, nursing services or health related services and is  
17 not used or held for profit.

18           (d) A qualifying health care organization, as defined in section  
19 42-5001, if the tangible personal property is used by the organization solely  
20 to provide health and medical related educational and charitable services.

21           (e) A qualifying health care organization as defined in section  
22 42-5001 if the organization is dedicated to providing educational,  
23 therapeutic, rehabilitative and family medical education training for blind,  
24 visually impaired and multihandicapped children from the time of birth to age  
25 twenty-one.

26           (f) A nonprofit charitable organization that has qualified under  
27 section 501(c)(3) of the United States internal revenue code and that engages  
28 in and uses such property exclusively in programs for mentally or physically  
29 handicapped persons if the programs are exclusively for training, job  
30 placement, rehabilitation or testing.

31           (g) A person that is subject to tax under article 1 of this chapter by  
32 reason of being engaged in business classified under the prime contracting  
33 classification under section 42-5075, or a subcontractor working under the  
34 control of a prime contractor, if the tangible personal property is any of  
35 the following:

36           (i) Incorporated or fabricated by the contractor into a structure,  
37 project, development or improvement in fulfillment of a contract.

38           (ii) Used in environmental response or remediation activities under  
39 section 42-5075, subsection B, paragraph 6.

40           (iii) Incorporated or fabricated by the person into any lake facility  
41 development in a commercial enhancement reuse district under conditions  
42 prescribed for the deduction allowed by section 42-5075, subsection B,  
43 paragraph 8.

44           (h) A nonprofit charitable organization that has qualified under  
45 section 501(c)(3) of the internal revenue code if the property is purchased

1 from the parent or an affiliate organization that is located outside this  
2 state.

3 (i) A qualifying community health center as defined in section  
4 42-5001.

5 (j) A nonprofit charitable organization that has qualified under  
6 section 501(c)(3) of the internal revenue code and that regularly serves  
7 meals to the needy and indigent on a continuing basis at no cost.

8 (k) A person engaged in business under the transient lodging  
9 classification if the property is a personal hygiene item or articles used by  
10 human beings for food, drink or condiment, except alcoholic beverages, which  
11 are furnished without additional charge to and intended to be consumed by the  
12 transient during the transient's occupancy.

13 (l) For taxable periods beginning from and after June 30, 2001, a  
14 nonprofit charitable organization that has qualified under section 501(c)(3)  
15 of the internal revenue code and that provides residential apartment housing  
16 for low income persons over sixty-two years of age in a facility that  
17 qualifies for a federal housing subsidy, if the tangible personal property is  
18 used by the organization solely to provide residential apartment housing for  
19 low income persons over sixty-two years of age in a facility that qualifies  
20 for a federal housing subsidy.

21 14. Commodities, as defined by title 7 United States Code section 2,  
22 that are consigned for resale in a warehouse in this state in or from which  
23 the commodity is deliverable on a contract for future delivery subject to the  
24 rules of a commodity market regulated by the United States commodity futures  
25 trading commission.

26 15. Tangible personal property sold by:

27 (a) Any nonprofit organization organized and operated exclusively for  
28 charitable purposes and recognized by the United States internal revenue  
29 service under section 501(c)(3) of the internal revenue code.

30 (b) A nonprofit organization that is exempt from taxation under  
31 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
32 organization is associated with a major league baseball team or a national  
33 touring professional golfing association and no part of the organization's  
34 net earnings inures to the benefit of any private shareholder or individual.

35 (c) A nonprofit organization that is exempt from taxation under  
36 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
37 internal revenue code if the organization sponsors or operates a rodeo  
38 featuring primarily farm and ranch animals and no part of the organization's  
39 net earnings inures to the benefit of any private shareholder or individual.

40 16. Drugs and medical oxygen, including delivery hose, mask or tent,  
41 regulator and tank, on the prescription of a member of the medical, dental or  
42 veterinarian profession who is licensed by law to administer such substances.

1           17. Prosthetic appliances, as defined in section 23-501, prescribed or  
2 recommended by a person who is licensed, registered or otherwise  
3 professionally credentialed as a physician, dentist, podiatrist,  
4 chiropractor, naturopath, homeopath, nurse or optometrist.

5           18. Prescription eyeglasses and contact lenses.

6           19. Insulin, insulin syringes and glucose test strips.

7           20. Hearing aids as defined in section 36-1901.

8           21. Durable medical equipment which has a centers for medicare and  
9 medicaid services common procedure code, is designated reimbursable by  
10 medicare, is prescribed by a person who is licensed under title 32, chapter  
11 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
12 used to serve a medical purpose, is generally not useful to a person in the  
13 absence of illness or injury and is appropriate for use in the home.

14           22. Food, as provided in and subject to the conditions of article 3 of  
15 this chapter and section 42-5074.

16           23. Items purchased with United States department of agriculture food  
17 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
18 958) or food instruments issued under section 17 of the child nutrition act  
19 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
20 section 1786).

21           24. Food and drink provided without monetary charge by a taxpayer which  
22 is subject to section 42-5074 to its employees for their own consumption on  
23 the premises during the employees' hours of employment.

24           25. Tangible personal property that is used or consumed in a business  
25 subject to section 42-5074 for human food, drink or condiment, whether  
26 simple, mixed or compounded.

27           26. Food, drink or condiment and accessory tangible personal property  
28 that are acquired for use by or provided to a school district or charter  
29 school if they are to be either served or prepared and served to persons for  
30 consumption on the premises of a public school in a school district during  
31 school hours.

32           27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
33 article 1.

34           28. Textbooks, sold by a bookstore, that are required by any state  
35 university or community college.

36           29. Magazines, other periodicals or other publications produced by this  
37 state to encourage tourist travel.

38           30. Paper machine clothing, such as forming fabrics and dryer felts,  
39 purchased by a paper manufacturer and directly used or consumed in paper  
40 manufacturing.

41           31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
42 purchased by a qualified environmental technology manufacturer, producer or  
43 processor as defined in section 41-1514.02 and directly used or consumed in  
44 the generation or provision of on-site power or energy solely for  
45 environmental technology manufacturing, producing or processing or

1 environmental protection. This paragraph shall apply for fifteen full  
2 consecutive calendar or fiscal years from the date the first paper  
3 manufacturing machine is placed in service. In the case of an environmental  
4 technology manufacturer, producer or processor who does not manufacture  
5 paper, the time period shall begin with the date the first manufacturing,  
6 processing or production equipment is placed in service.

7 32. Motor vehicles that are removed from inventory by a motor vehicle  
8 dealer as defined in section 28-4301 and that are provided to:

9 (a) Charitable or educational institutions that are exempt from  
10 taxation under section 501(c)(3) of the internal revenue code.

11 (b) Public educational institutions.

12 (c) State universities or affiliated organizations of a state  
13 university if no part of the organization's net earnings inures to the  
14 benefit of any private shareholder or individual.

15 33. Natural gas or liquefied petroleum gas used to propel a motor  
16 vehicle.

17 34. Machinery, equipment, technology or related supplies that are only  
18 useful to assist a person who is physically disabled as defined in section  
19 46-191, has a developmental disability as defined in section 36-551 or has a  
20 head injury as defined in section 41-3201 to be more independent and  
21 functional.

22 35. Liquid, solid or gaseous chemicals used in manufacturing,  
23 processing, fabricating, mining, refining, metallurgical operations, research  
24 and development and, beginning on January 1, 1999, printing, if using or  
25 consuming the chemicals, alone or as part of an integrated system of  
26 chemicals, involves direct contact with the materials from which the product  
27 is produced for the purpose of causing or permitting a chemical or physical  
28 change to occur in the materials as part of the production process. This  
29 paragraph does not include chemicals that are used or consumed in activities  
30 such as packaging, storage or transportation but does not affect any  
31 exemption for such chemicals that is otherwise provided by this section. For  
32 the purposes of this paragraph, "printing" means a commercial printing  
33 operation and includes job printing, engraving, embossing, copying and  
34 bookbinding.

35 36. Food, drink and condiment purchased for consumption within the  
36 premises of any prison, jail or other institution under the jurisdiction of  
37 the state department of corrections, the department of public safety, the  
38 department of juvenile corrections or a county sheriff.

39 37. A motor vehicle and any repair and replacement parts and tangible  
40 personal property becoming a part of such motor vehicle sold to a motor  
41 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4  
42 and who is engaged in the business of leasing or renting such property.

43 38. Tangible personal property which is or directly enters into and  
44 becomes an ingredient or component part of cards used as prescription plan  
45 identification cards.

1           39. Overhead materials or other tangible personal property that is used  
2 in performing a contract between the United States government and a  
3 manufacturer, modifier, assembler or repairer, including property used in  
4 performing a subcontract with a government contractor who is a manufacturer,  
5 modifier, assembler or repairer, to which title passes to the government  
6 under the terms of the contract or subcontract. For the purposes of this  
7 paragraph:

8           (a) "Overhead materials" means tangible personal property, the gross  
9 proceeds of sales or gross income derived from which would otherwise be  
10 included in the retail classification, and which are used or consumed in the  
11 performance of a contract, the cost of which is charged to an overhead  
12 expense account and allocated to various contracts based upon generally  
13 accepted accounting principles and consistent with government contract  
14 accounting standards.

15           (b) "Subcontract" means an agreement between a contractor and any  
16 person who is not an employee of the contractor for furnishing of supplies or  
17 services that, in whole or in part, are necessary to the performance of one  
18 or more government contracts, or under which any portion of the contractor's  
19 obligation under one or more government contracts is performed, undertaken or  
20 assumed, and that includes provisions causing title to overhead materials or  
21 other tangible personal property used in the performance of the subcontract  
22 to pass to the government or that includes provisions incorporating such  
23 title passing clauses in a government contract into the subcontract.

24           40. Through December 31, 1994, tangible personal property sold pursuant  
25 to a personal property liquidation transaction, as defined in section  
26 42-5061. From and after December 31, 1994, tangible personal property sold  
27 pursuant to a personal property liquidation transaction, as defined in  
28 section 42-5061, if the gross proceeds of the sales were included in the  
29 measure of the tax imposed by article 1 of this chapter or if the personal  
30 property liquidation was a casual activity or transaction.

31           41. Wireless telecommunications equipment that is held for sale or  
32 transfer to a customer as an inducement to enter into or continue a contract  
33 for telecommunications services that are taxable under section 42-5064.

34           42. Alternative fuel, as defined in section 1-215, purchased by a used  
35 oil fuel burner who has received a permit to burn used oil or used oil fuel  
36 under section 49-426 or 49-480.

37           43. Tangible personal property purchased by a commercial airline and  
38 consisting of food, beverages and condiments and accessories used for serving  
39 the food and beverages, if those items are to be provided without additional  
40 charge to passengers for consumption in flight. For the purposes of this  
41 paragraph, "commercial airline" means a person holding a federal certificate  
42 of public convenience and necessity or foreign air carrier permit for air  
43 transportation to transport persons, property or United States mail in  
44 intrastate, interstate or foreign commerce.

1           44. Alternative fuel vehicles if the vehicle was manufactured as a  
2 diesel fuel vehicle and converted to operate on alternative fuel and  
3 equipment that is installed in a conventional diesel fuel motor vehicle to  
4 convert the vehicle to operate on an alternative fuel, as defined in section  
5 1-215.

6           45. Gas diverted from a pipeline, by a person engaged in the business  
7 of:

8           (a) Operating a natural or artificial gas pipeline, and used or  
9 consumed for the sole purpose of fueling compressor equipment that  
10 pressurizes the pipeline.

11           (b) Converting natural gas into liquefied natural gas, and used or  
12 consumed for the sole purpose of fueling compressor equipment used in the  
13 conversion process.

14           46. Tangible personal property that is excluded, exempt or deductible  
15 from transaction privilege tax pursuant to section 42-5063.

16           47. Tangible personal property purchased to be incorporated or  
17 installed as part of environmental response or remediation activities under  
18 section 42-5075, subsection B, paragraph 6.

19           48. Tangible personal property sold by a nonprofit organization that is  
20 exempt from taxation under section 501(c)(6) of the internal revenue code if  
21 the organization produces, organizes or promotes cultural or civic related  
22 festivals or events and no part of the organization's net earnings inures to  
23 the benefit of any private shareholder or individual.

24           49. Prepared food, drink or condiment donated by a restaurant as  
25 classified in section 42-5074, subsection A to a nonprofit charitable  
26 organization that has qualified under section 501(c)(3) of the internal  
27 revenue code and that regularly serves meals to the needy and indigent on a  
28 continuing basis at no cost.

29           50. Application services that are designed to assess or test student  
30 learning or to promote curriculum design or enhancement purchased by or for  
31 any school district, charter school, community college or state university.  
32 For the purposes of this paragraph:

33           (a) "Application services" means software applications provided  
34 remotely using hypertext transfer protocol or another network protocol.

35           (b) "Curriculum design or enhancement" means planning, implementing or  
36 reporting on courses of study, lessons, assignments or other learning  
37 activities.

38           B. In addition to the exemptions allowed by subsection A of this  
39 section, the following categories of tangible personal property are also  
40 exempt:

41           1. Machinery, or equipment, used directly in manufacturing,  
42 processing, fabricating, job printing, refining or metallurgical operations.  
43 The terms "manufacturing", "processing", "fabricating", "job printing",  
44 "refining" and "metallurgical" as used in this paragraph refer to and include  
45 those operations commonly understood within their ordinary meaning.

1 "Metallurgical operations" includes leaching, milling, precipitating,  
2 smelting and refining.

3 2. Machinery, or equipment, used directly in the process of extracting  
4 ores or minerals from the earth for commercial purposes, including equipment  
5 required to prepare the materials for extraction and handling, loading or  
6 transporting such extracted material to the surface. "Mining" includes  
7 underground, surface and open pit operations for extracting ores and  
8 minerals.

9 3. Tangible personal property sold to persons engaged in business  
10 classified under the telecommunications classification under section 42-5064  
11 and consisting of central office switching equipment, switchboards, private  
12 branch exchange equipment, microwave radio equipment and carrier equipment  
13 including optical fiber, coaxial cable and other transmission media which are  
14 components of carrier systems.

15 4. Machinery, equipment or transmission lines used directly in  
16 producing or transmitting electrical power, but not including distribution.  
17 Transformers and control equipment used at transmission substation sites  
18 constitute equipment used in producing or transmitting electrical power.

19 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
20 to be used as breeding or production stock, including sales of breedings or  
21 ownership shares in such animals used for breeding or production.

22 6. Pipes or valves four inches in diameter or larger used to transport  
23 oil, natural gas, artificial gas, water or coal slurry, including compressor  
24 units, regulators, machinery and equipment, fittings, seals and any other  
25 part that is used in operating the pipes or valves.

26 7. Aircraft, navigational and communication instruments and other  
27 accessories and related equipment sold to:

28 (a) A person holding a federal certificate of public convenience and  
29 necessity, a supplemental air carrier certificate under federal aviation  
30 regulations (14 Code of Federal Regulations part 121) or a foreign air  
31 carrier permit for air transportation for use as or in conjunction with or  
32 becoming a part of aircraft to be used to transport persons, property or  
33 United States mail in intrastate, interstate or foreign commerce.

34 (b) Any foreign government for use by such government outside of this  
35 state, or sold to persons who are not residents of this state and who will  
36 not use such property in this state other than in removing such property from  
37 this state.

38 8. Machinery, tools, equipment and related supplies used or consumed  
39 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
40 or aircraft component parts by or on behalf of a certificated or licensed  
41 carrier of persons or property.

42 9. Rolling stock, rails, ties and signal control equipment used  
43 directly to transport persons or property.

1           10. Machinery or equipment used directly to drill for oil or gas or  
2 used directly in the process of extracting oil or gas from the earth for  
3 commercial purposes.

4           11. Buses or other urban mass transit vehicles which are used directly  
5 to transport persons or property for hire or pursuant to a governmentally  
6 adopted and controlled urban mass transportation program and which are sold  
7 to bus companies holding a federal certificate of convenience and necessity  
8 or operated by any city, town or other governmental entity or by any person  
9 contracting with such governmental entity as part of a governmentally adopted  
10 and controlled program to provide urban mass transportation.

11           12. Groundwater measuring devices required under section 45-604.

12           13. New machinery and equipment consisting of tractors, tractor-drawn  
13 implements, self-powered implements, machinery and equipment necessary for  
14 extracting milk, and machinery and equipment necessary for cooling milk and  
15 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
16 this subsection and that are used for commercial production of agricultural,  
17 horticultural, viticultural and floricultural crops and products in this  
18 state. For the purposes of this paragraph:

19           (a) "New machinery and equipment" means machinery or equipment which  
20 has never been sold at retail except pursuant to leases or rentals which do  
21 not total two years or more.

22           (b) "Self-powered implements" includes machinery and equipment that  
23 are electric-powered.

24           14. Machinery or equipment used in research and development. For the  
25 purposes of this paragraph, "research and development" means basic and  
26 applied research in the sciences and engineering, and designing, developing  
27 or testing prototypes, processes or new products, including research and  
28 development of computer software that is embedded in or an integral part of  
29 the prototype or new product or that is required for machinery or equipment  
30 otherwise exempt under this section to function effectively. Research and  
31 development do not include manufacturing quality control, routine consumer  
32 product testing, market research, sales promotion, sales service, research in  
33 social sciences or psychology, computer software research that is not  
34 included in the definition of research and development, or other  
35 nontechnological activities or technical services.

36           15. Machinery and equipment that are purchased by or on behalf of the  
37 owners of a soundstage complex and primarily used for motion picture,  
38 multimedia or interactive video production in the complex. This paragraph  
39 applies only if the initial construction of the soundstage complex begins  
40 after June 30, 1996 and before January 1, 2002 and the machinery and  
41 equipment are purchased before the expiration of five years after the start  
42 of initial construction. For the purposes of this paragraph:

43           (a) "Motion picture, multimedia or interactive video production"  
44 includes products for theatrical and television release, educational  
45 presentations, electronic retailing, documentaries, music videos, industrial

1 films, CD-ROM, video game production, commercial advertising and television  
2 episode production and other genres that are introduced through developing  
3 technology.

4 (b) "Soundstage complex" means a facility of multiple stages including  
5 production offices, construction shops and related areas, prop and costume  
6 shops, storage areas, parking for production vehicles and areas that are  
7 leased to businesses that complement the production needs and orientation of  
8 the overall facility.

9 16. Tangible personal property that is used by either of the following  
10 to receive, store, convert, produce, generate, decode, encode, control or  
11 transmit telecommunications information:

12 (a) Any direct broadcast satellite television or data transmission  
13 service that operates pursuant to 47 Code of Federal Regulations part 25.

14 (b) Any satellite television or data transmission facility, if both of  
15 the following conditions are met:

16 (i) Over two-thirds of the transmissions, measured in megabytes,  
17 transmitted by the facility during the test period were transmitted to or on  
18 behalf of one or more direct broadcast satellite television or data  
19 transmission services that operate pursuant to 47 Code of Federal Regulations  
20 part 25.

21 (ii) Over two-thirds of the transmissions, measured in megabytes,  
22 transmitted by or on behalf of those direct broadcast television or data  
23 transmission services during the test period were transmitted by the facility  
24 to or on behalf of those services.

25 For the purposes of subdivision (b) of this paragraph, "test period" means  
26 the three hundred sixty-five day period beginning on the later of the date on  
27 which the tangible personal property is purchased or the date on which the  
28 direct broadcast satellite television or data transmission service first  
29 transmits information to its customers.

30 17. Clean rooms that are used for manufacturing, processing,  
31 fabrication or research and development, as defined in paragraph 14 of this  
32 subsection, of semiconductor products. For the purposes of this paragraph,  
33 "clean room" means all property that comprises or creates an environment  
34 where humidity, temperature, particulate matter and contamination are  
35 precisely controlled within specified parameters, without regard to whether  
36 the property is actually contained within that environment or whether any of  
37 the property is affixed to or incorporated into real property. Clean room:

38 (a) Includes the integrated systems, fixtures, piping, movable  
39 partitions, lighting and all property that is necessary or adapted to reduce  
40 contamination or to control airflow, temperature, humidity, chemical purity  
41 or other environmental conditions or manufacturing tolerances, as well as the  
42 production machinery and equipment operating in conjunction with the clean  
43 room environment.

44 (b) Does not include the building or other permanent, nonremovable  
45 component of the building that houses the clean room environment.

1           18. Machinery and equipment that are used directly in the feeding of  
2 poultry, the environmental control of housing for poultry, the movement of  
3 eggs within a production and packaging facility or the sorting or cooling of  
4 eggs. This exemption does not apply to vehicles used for transporting eggs.

5           19. Machinery or equipment, including related structural components,  
6 that is employed in connection with manufacturing, processing, fabricating,  
7 job printing, refining, mining, natural gas pipelines, metallurgical  
8 operations, telecommunications, producing or transmitting electricity or  
9 research and development and that is used directly to meet or exceed rules or  
10 regulations adopted by the federal energy regulatory commission, the United  
11 States environmental protection agency, the United States nuclear regulatory  
12 commission, the Arizona department of environmental quality or a political  
13 subdivision of this state to prevent, monitor, control or reduce land, water  
14 or air pollution.

15           20. Machinery and equipment that are used in the commercial production  
16 of livestock, livestock products or agricultural, horticultural, viticultural  
17 or floricultural crops or products in this state and that are used directly  
18 and primarily to prevent, monitor, control or reduce air, water or land  
19 pollution.

20           21. Machinery or equipment that enables a television station to  
21 originate and broadcast or to receive and broadcast digital television  
22 signals and that was purchased to facilitate compliance with the  
23 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States  
24 Code section 336) and the federal communications commission order issued  
25 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does  
26 not exempt any of the following:

27           (a) Repair or replacement parts purchased for the machinery or  
28 equipment described in this paragraph.

29           (b) Machinery or equipment purchased to replace machinery or equipment  
30 for which an exemption was previously claimed and taken under this paragraph.

31           (c) Any machinery or equipment purchased after the television station  
32 has ceased analog broadcasting, or purchased after November 1, 2009,  
33 whichever occurs first.

34           22. Qualifying equipment that is purchased from and after June 30, 2004  
35 through June 30, 2014 by a qualified business under section 41-1516 for  
36 harvesting or the initial processing of qualifying forest products removed  
37 from qualifying projects as defined in section 41-1516. To qualify for this  
38 exemption, the qualified business must obtain and present its certification  
39 from the department of commerce at the time of purchase.

40           23. Machinery, equipment and other tangible personal property used  
41 directly in motion picture production by a motion picture production company.  
42 To qualify for this exemption, at the time of purchase, the motion picture  
43 production company must present to the retailer its certificate that is  
44 issued pursuant to section 42-5009, subsection H and that establishes its  
45 qualification for the exemption.

1 C. The exemptions provided by subsection B of this section do not  
2 include:

3 1. Expendable materials. For the purposes of this paragraph,  
4 expendable materials do not include any of the categories of tangible  
5 personal property specified in subsection B of this section regardless of the  
6 cost or useful life of that property.

7 2. Janitorial equipment and hand tools.

8 3. Office equipment, furniture and supplies.

9 4. Tangible personal property used in selling or distributing  
10 activities, other than the telecommunications transmissions described in  
11 subsection B, paragraph 16 of this section.

12 5. Motor vehicles required to be licensed by this state, except buses  
13 or other urban mass transit vehicles specifically exempted pursuant to  
14 subsection B, paragraph 11 of this section, without regard to the use of such  
15 motor vehicles.

16 6. Shops, buildings, docks, depots and all other materials of whatever  
17 kind or character not specifically included as exempt.

18 7. Motors and pumps used in drip irrigation systems.

19 D. The following shall be deducted in computing the purchase price of  
20 electricity by a retail electric customer from a utility business:

21 1. Revenues received from sales of ancillary services, electric  
22 distribution services, electric generation services, electric transmission  
23 services and other services related to providing electricity to a retail  
24 electric customer who is located outside this state for use outside this  
25 state if the electricity is delivered to a point of sale outside this state.

26 2. Revenues received from providing electricity, including ancillary  
27 services, electric distribution services, electric generation services,  
28 electric transmission services and other services related to providing  
29 electricity with respect to which the transaction privilege tax imposed under  
30 section 42-5063 has been paid.

31 E. The tax levied by this article does not apply to:

32 1. The storage, use or consumption in Arizona of machinery, equipment,  
33 materials or other tangible personal property if used directly and  
34 predominantly to construct a qualified environmental technology  
35 manufacturing, producing or processing facility, as described in section  
36 41-1514.02. This paragraph applies for ten full consecutive calendar or  
37 fiscal years after the start of initial construction.

38 2. The purchase of electricity by a qualified environmental technology  
39 manufacturer, producer or processor as defined in section 41-1514.02 that is  
40 used directly in environmental technology manufacturing, producing or  
41 processing. This paragraph shall apply for fifteen full consecutive calendar  
42 or fiscal years from the date the first paper manufacturing machine is placed  
43 in service. In the case of an environmental technology manufacturer,  
44 producer or processor who does not manufacture paper, the time period shall

1 begin with the date the first manufacturing, processing or production  
2 equipment is placed in service.

3 3. The purchase of solar energy devices from a retailer that is  
4 registered with the department as a solar energy retailer or a solar energy  
5 contractor.

6 F. The following shall be deducted in computing the purchase price of  
7 electricity by a retail electric customer from a utility business:

8 1. Fees charged by a municipally owned utility to persons constructing  
9 residential, commercial or industrial developments or connecting residential,  
10 commercial or industrial developments to a municipal utility system or  
11 systems if the fees are segregated and used only for capital expansion,  
12 system enlargement or debt service of the utility system or systems.

13 2. Reimbursement or contribution compensation to any person or persons  
14 owning a utility system for property and equipment installed to provide  
15 utility access to, on or across the land of an actual utility consumer if the  
16 property and equipment become the property of the utility. This deduction  
17 shall not exceed the value of such property and equipment.

18 G. For the purposes of subsection B of this section:

19 1. "Aircraft" includes:

20 (a) An airplane flight simulator that is approved by the federal  
21 aviation administration for use as a phase II or higher flight simulator  
22 under appendix H, 14 Code of Federal Regulations part 121.

23 (b) Tangible personal property that is permanently affixed or attached  
24 as a component part of an aircraft that is owned or operated by a  
25 certificated or licensed carrier of persons or property.

26 2. "Other accessories and related equipment" includes aircraft  
27 accessories and equipment such as ground service equipment that physically  
28 contact aircraft at some point during the overall carrier operation.

29 H. For the purposes of subsection D of this section, "ancillary  
30 services", "electric distribution service", "electric generation service",  
31 "electric transmission service" and "other services" have the same meanings  
32 prescribed in section 42-5063.

33 Sec. 51. Title 42, chapter 6, article 1, Arizona Revised Statutes, is  
34 amended by adding section 42-6011, to read:

35 42-6011. Municipal excise tax; motor fuel

36 A. IN ADDITION TO TAXES AUTHORIZED BY THE MODEL CITY TAX CODE, A CITY  
37 OR TOWN MAY LEVY A TAX ON THE BUSINESS OF SELLING AT RETAIL FUEL THAT IS USED  
38 FOR THE PROPULSION OF MOTOR VEHICLES AND WATERCRAFT, MEASURED AND LEVIED AS A  
39 PERCENTAGE OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THE BUSINESS.

40 B. PURSUANT TO ARTICLE IX, SECTION 14, CONSTITUTION OF ARIZONA, A CITY  
41 OR TOWN THAT LEVIES A TAX PURSUANT TO THIS SECTION MUST DEDICATE THE NET  
42 REVENUES FROM THE TAX EXCLUSIVELY FOR HIGHWAY AND STREET PURPOSES INCLUDING:

- 1           1. COSTS OF RIGHTS-OF-WAY ACQUISITIONS AND RELATED EXPENSES.
- 2           2. CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, REPAIR AND ROADSIDE
- 3 DEVELOPMENT OF CITY OR TOWN ROADS, STREETS AND BRIDGES.
- 4           3. PAYMENT OF PRINCIPAL AND INTEREST ON HIGHWAY AND STREET BONDS.
- 5           Sec. 52. Title 42, chapter 6, article 3, Arizona Revised Statutes, is
- 6 amended by adding section 42-6103.01, to read:
- 7           42-6103.01. County excise tax; motor fuel
- 8           A. IN ADDITION TO ANY OTHER TAX AUTHORIZED BY THIS ARTICLE, ANY
- 9 COUNTY, ON A MAJORITY VOTE OF THE BOARD OF SUPERVISORS, MAY LEVY AND, IF
- 10 LEVIED, THE DEPARTMENT SHALL COLLECT A COUNTY TAX ON THE BUSINESS OF SELLING
- 11 AT RETAIL FUEL THAT IS USED FOR THE PROPULSION OF MOTOR VEHICLES AND
- 12 WATERCRAFT, MEASURED AND LEVIED AS A PERCENTAGE OF THE GROSS PROCEEDS OF
- 13 SALES OR GROSS INCOME FROM THE BUSINESS.
- 14           B. AT THE END OF EACH MONTH THE STATE TREASURER SHALL TRANSMIT THE NET
- 15 REVENUES COLLECTED PURSUANT TO THIS SECTION TO THE TREASURER OF THE COUNTY
- 16 LEVYING THE TAX.
- 17           C. PURSUANT TO ARTICLE IX, SECTION 14, CONSTITUTION OF ARIZONA, A
- 18 COUNTY THAT LEVIES A TAX PURSUANT TO THIS SECTION MUST DEDICATE THE NET
- 19 REVENUES FROM THE TAX EXCLUSIVELY FOR HIGHWAY AND STREET PURPOSES INCLUDING:
- 20           1. COSTS OF RIGHTS-OF-WAY ACQUISITIONS AND RELATED EXPENSES.
- 21           2. CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, REPAIR AND ROADSIDE
- 22 DEVELOPMENT OF COUNTY ROADS, STREETS AND BRIDGES.
- 23           3. PAYMENT OF PRINCIPAL AND INTEREST ON HIGHWAY AND STREET BONDS.