

REFERENCE TITLE: **taxation; fuel; vehicle license**

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

## **HB 2367**

Introduced by  
Representatives Mosley: Toma

### **AN ACT**

AMENDING SECTIONS 28-101, 28-401, 28-481, 28-1176, 28-2232, 28-5474, 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, 28-5610, 28-5611, 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, 28-5634, 28-5636, 28-5637, 28-5638, 28-5639 AND 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 28-5801, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5805, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5808 AND 28-5925, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-5926 AND 28-5927, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-6001, 28-6003, 28-6006, 28-6501, 28-6540, 28-6547, 41-194.01, 42-5010, 42-5029, 42-5061, 42-5063, 42-5071 AND 42-5075, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; AMENDING SECTIONS 42-5151, 42-5159, 42-6004, 42-6010, 42-6102 AND 49-1031, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(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  
9 either:

10 (a) The number of grams of alcohol per one hundred milliliters of  
11 blood.

12 (b) The number of grams of alcohol per two hundred ten liters of  
13 breath.

14 3. "All-terrain vehicle" means either of the following:

15 (a) A motor vehicle that satisfies all of the following:

16 (i) Is designed primarily for recreational nonhighway all-terrain  
17 travel.

18 (ii) Is fifty or fewer inches in width.

19 (iii) Has an unladen weight of one thousand two hundred pounds or  
20 less.

21 (iv) Travels on three or more nonhighway tires.

22 (v) Is operated on a public highway.

23 (b) A recreational off-highway vehicle that satisfies all of the  
24 following:

25 (i) Is designed primarily for recreational nonhighway all-terrain  
26 travel.

27 (ii) Is sixty-five or fewer inches in width.

28 (iii) Has an unladen weight of one thousand eight hundred pounds or  
29 less.

30 (iv) Travels on four or more nonhighway tires.

31 4. "Authorized emergency vehicle" means any of the following:

32 (a) A fire department vehicle.

33 (b) A police vehicle.

34 (c) An ambulance or emergency vehicle of a municipal department or  
35 public service corporation that is designated or authorized by the  
36 department or a local authority.

37 (d) Any other ambulance, fire truck or rescue vehicle that is  
38 authorized by the department in its sole discretion and that meets  
39 liability insurance requirements prescribed by the department.

40 5. "Autocycle" means a three-wheeled motorcycle on which the driver  
41 and passengers ride in a fully or partially enclosed seating area that is  
42 equipped with a roll cage, safety belts for each occupant and antilock  
43 brakes and that is designed to be controlled with a steering wheel and  
44 pedals.

1           6. "Aviation fuel" means all flammable liquids composed of a  
2 mixture of selected hydrocarbons expressly manufactured and blended for  
3 the purpose of effectively and efficiently operating an internal  
4 combustion engine for use in an aircraft but does not include fuel for jet  
5 or turbine powered aircraft.

6           7. "Bicycle" means a device, including a racing wheelchair, that is  
7 propelled by human power and on which a person may ride and that has  
8 either:

9           (a) Two tandem wheels, either of which is more than sixteen inches  
10 in diameter.

11           (b) Three wheels in contact with the ground, any of which is more  
12 than sixteen inches in diameter.

13           8. "Board" means the transportation board.

14           9. "Bus" means a motor vehicle designed for carrying sixteen or  
15 more passengers, including the driver.

16           10. "Business district" means the territory contiguous to and  
17 including a highway if there are buildings in use for business or  
18 industrial purposes within any six hundred feet along the highway,  
19 including hotels, banks or office buildings, railroad stations and public  
20 buildings that occupy at least three hundred feet of frontage on one side  
21 or three hundred feet collectively on both sides of the highway.

22           11. "Certificate of ownership" means a paper or an electronic  
23 record that is issued in another state or a foreign jurisdiction and that  
24 indicates ownership of a vehicle.

25           12. "Certificate of title" means a paper document or an electronic  
26 record that is issued by the department and that indicates ownership of a  
27 vehicle.

28           13. "Combination of vehicles" means a truck or truck tractor and  
29 semitrailer and any trailer that it tows but does not include a forklift  
30 designed for the purpose of loading or unloading the truck, trailer or  
31 semitrailer.

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

36           15. "Conviction" means:

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

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

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

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

44           16. "County highway" means a public road that is constructed and  
45 maintained by a county.

1           17. "Dealer" means a person who is engaged in the business of  
2 buying, selling or exchanging motor vehicles, trailers or semitrailers and  
3 who has an established place of business and has paid fees pursuant to  
4 section 28-4302.

5           18. "Department" means the department of transportation acting  
6 directly or through its duly authorized officers and agents.

7           19. "Digital network or software application" has the same meaning  
8 prescribed in section 28-9551.

9           20. "Director" means the director of the department of  
10 transportation.

11           21. "Drive" means to operate or be in actual physical control of a  
12 motor vehicle.

13           22. "Driver" means a person who drives or is in actual physical  
14 control of a vehicle.

15           23. "Driver license" means a license that is issued by a state to  
16 an individual and that authorizes the individual to drive a motor vehicle.

17           24. "Electric personal assistive mobility device" means a  
18 self-balancing device with one wheel or two nontandem wheels and an  
19 electric propulsion system that limits the maximum speed of the device to  
20 fifteen miles per hour or less and that is designed to transport only one  
21 person.

22           25. "Farm" means any lands primarily used for agriculture  
23 production.

24           26. "Farm tractor" means a motor vehicle designed and used  
25 primarily as a farm implement for drawing implements of husbandry.

26           27. "Foreign vehicle" means a motor vehicle, trailer or semitrailer  
27 that is brought into this state other than in the ordinary course of  
28 business by or through a manufacturer or dealer and that has not been  
29 registered in this state.

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

35           29. "Hazardous material" means a material, and its mixtures or  
36 solutions, that the United States department of transportation determines  
37 under 49 Code of Federal Regulations is, or any quantity of a material  
38 listed as a select agent or toxin under 42 Code of Federal Regulations  
39 part 73 that is, capable of posing an unreasonable risk to health, safety  
40 and property if transported in commerce and that is required to be  
41 placarded or marked as required by the department's safety rules  
42 prescribed pursuant to chapter 14 of this title.

43           30. "Implement of husbandry" means a vehicle that is designed  
44 primarily for agricultural purposes and that is used exclusively in the  
45 conduct of agricultural operations, including an implement or vehicle

whether self-propelled or otherwise that meets both of the following conditions:

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

(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

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

32. "Livery vehicle" means a motor vehicle that:

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

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

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

(d) May do any of the following:

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

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

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

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

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

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

~~39.~~ 36. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor and a moped.

~~36.~~ 37. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

1       ~~40.~~ 38. "Motorized quadricycle" means a self-propelled motor  
2 vehicle to which all of the following apply:

3       (a) The vehicle is self-propelled by an emission-free electric  
4 motor and may include pedals operated by the passengers.

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

7       (c) The vehicle seats at least eight passengers, including the  
8 driver.

9       (d) The vehicle is operable on a flat surface using solely the  
10 electric motor without assistance from the pedals or passengers.

11       (e) The vehicle is a commercial motor vehicle as defined in section  
12 28-5201.

13       (f) The vehicle is a limousine operating under a vehicle for hire  
14 company permit issued pursuant to section 28-9503.

15       (g) The vehicle is manufactured by a motor vehicle manufacturer  
16 that is licensed pursuant to chapter 10 of this title.

17       (h) The vehicle complies with the definition and standards for  
18 low-speed vehicles set forth in federal motor vehicle safety standard 500  
19 and 49 Code of Federal Regulations sections 571.3(b) and 571.500,  
20 respectively.

21       ~~37.~~ 39. "Motor vehicle":

22       (a) Means either:

23       (i) A self-propelled vehicle.

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

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

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

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

35       ~~38.~~ 40. "Motor vehicle fuel" includes all products that are  
36 commonly or commercially known or sold as gasoline, including casinghead  
37 gasoline, natural gasoline and all flammable liquids, and that are  
38 composed of a mixture of selected hydrocarbons expressly manufactured and  
39 blended for the purpose of effectively and efficiently operating internal  
40 combustion engines. Motor vehicle fuel does not include inflammable  
41 liquids that are specifically manufactured for racing motor vehicles and  
42 that are distributed for and used by racing motor vehicles at a racetrack,  
43 use fuel ~~as defined in section 28-5601~~, aviation fuel, fuel for jet or  
44 turbine powered aircraft or the mixture created at the interface of two

1 different substances being transported through a pipeline, commonly known  
2 as transmix.

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

5 (a) The vehicle is emission free.

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

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

12 42. "Nonresident" means a person who is not a resident of this  
13 state as defined in section 28-2001.

14 43. "Off-road recreational motor vehicle" means a motor vehicle  
15 that is designed primarily for recreational nonhighway all-terrain travel  
16 and that is not operated on a public highway. Off-road recreational motor  
17 vehicle does not mean a motor vehicle used for construction, building  
18 trade, mining or agricultural purposes.

19 44. "Operator" means a person who drives a motor vehicle on a  
20 highway, who is in actual physical control of a motor vehicle on a highway  
21 or who is exercising control over or steering a vehicle being towed by a  
22 motor vehicle.

23 45. "Owner" means:

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

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

29 (c) If a mortgagor of a vehicle is entitled to possession of the  
30 vehicle, the mortgagor.

31 46. "Pedestrian" means any person afoot. A person who uses an  
32 electric personal assistive mobility device or a manual or motorized  
33 wheelchair is considered a pedestrian unless the manual wheelchair  
34 qualifies as a bicycle. For the purposes of this paragraph, "motorized  
35 wheelchair" means a self-propelled wheelchair that is used by a person for  
36 mobility.

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

44 48. "Public transit" means the transportation of passengers on  
45 scheduled routes by means of a conveyance on an individual passenger

1 fare-paying basis excluding transportation by a sightseeing bus, school  
2 bus or taxi or a vehicle not operated on a scheduled route basis.

3 49. "Reconstructed vehicle" means a vehicle that has been assembled  
4 or constructed largely by means of essential parts, new or used, derived  
5 from vehicles or makes of vehicles of various names, models and types or  
6 that, if originally otherwise constructed, has been materially altered by  
7 the removal of essential parts or by the addition or substitution of  
8 essential parts, new or used, derived from other vehicles or makes of  
9 vehicles. For the purposes of this paragraph, "essential parts" means  
10 integral and body parts, the removal, alteration or substitution of which  
11 will tend to conceal the identity or substantially alter the appearance of  
12 the vehicle.

13 50. "Residence district" means the territory contiguous to and  
14 including a highway not comprising a business district if the property on  
15 the highway for a distance of three hundred feet or more is in the main  
16 improved with residences or residences and buildings in use for business.

17 51. "Right-of-way" when used within the context of the regulation  
18 of the movement of traffic on a highway means the privilege of the  
19 immediate use of the highway. Right-of-way when used within the context  
20 of the real property on which transportation facilities and appurtenances  
21 to the facilities are constructed or maintained means the lands or  
22 interest in lands within the right-of-way boundaries.

23 52. "School bus" means a motor vehicle that is designed for  
24 carrying more than ten passengers and that is either:

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

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

31 53. "Semitrailer" means a vehicle that is with or without motive  
32 power, other than a pole trailer, that is designed for carrying persons or  
33 property and for being drawn by a motor vehicle and that is constructed so  
34 that some part of its weight and that of its load rests on or is carried  
35 by another vehicle. For the purposes of this paragraph, "pole trailer"  
36 has the same meaning prescribed in section 28-601.

37 54. "State" means a state of the United States and the District of  
38 Columbia.

39 55. "State highway" means a state route or portion of a state route  
40 that is accepted and designated by the board as a state highway and that  
41 is maintained by the state.

42 56. "State route" means a right-of-way whether actually used as a  
43 highway or not that is designated by the board as a location for the  
44 construction of a state highway.



1           57. "Street" or "highway" means the entire width between the  
2 boundary lines of every way if a part of the way is open to the use of the  
3 public for purposes of vehicular travel.

4           58. "Taxi" means a motor vehicle that has a seating capacity not  
5 exceeding fifteen passengers, including the driver, that provides  
6 passenger services and that:

7           (a) Does not primarily operate on a regular route or between  
8 specified places.

9           (b) Offers local transportation for a fare determined on the basis  
10 of the distance traveled or prearranged ground transportation service as  
11 defined in section 28-141 for a predetermined fare.

12          59. "Title transfer form" means a paper or an electronic form that  
13 is prescribed by the department for the purpose of transferring a  
14 certificate of title from one owner to another owner.

15          60. "Traffic survival school" means a school that offers  
16 educational sessions to drivers who are required to attend and  
17 successfully complete educational sessions pursuant to this title that are  
18 designed to improve the safety and habits of drivers and that are approved  
19 by the department.

20          61. "Trailer" means a vehicle that is with or without motive power,  
21 other than a pole trailer, that is designed for carrying persons or  
22 property and for being drawn by a motor vehicle and that is constructed so  
23 that no part of its weight rests on the towing vehicle. A semitrailer  
24 equipped with an auxiliary front axle commonly known as a dolly is deemed  
25 to be a trailer. For the purposes of this paragraph, "pole trailer" has  
26 the same meaning prescribed in section 28-601.

27          62. "Transportation network company" has the same meaning  
28 prescribed in section 28-9551.

29          63. "Transportation network company vehicle" has the same meaning  
30 prescribed in section 28-9551.

31          64. "Transportation network service" has the same meaning  
32 prescribed in section 28-9551.

33          65. "Truck" means a motor vehicle designed or used primarily for  
34 the carrying of property other than the effects of the driver or  
35 passengers and includes a motor vehicle to which has been added a box, a  
36 platform or other equipment for such carrying.

37          66. "Truck tractor" means a motor vehicle that is designed and used  
38 primarily for drawing other vehicles and that is not constructed to carry  
39 a load other than a part of the weight of the vehicle and load drawn.

40          67. "Vehicle" means a device in, on or by which a person or  
41 property is or may be transported or drawn on a public highway, excluding  
42 devices moved by human power or used exclusively on stationary rails or  
43 tracks.

1           68. "Vehicle transporter" means either:

2           (a) A truck tractor capable of carrying a load and drawing a  
3 semitrailer.

4           (b) A truck tractor with a stinger-steered fifth wheel capable of  
5 carrying a load and drawing a semitrailer or a truck tractor with a dolly  
6 mounted fifth wheel that is securely fastened to the truck tractor at two  
7 or more points and that is capable of carrying a load and drawing a  
8 semitrailer.

9           Sec. 2. Section 28-401, Arizona Revised Statutes, is amended to  
10 read:

11           28-401. Intergovernmental agreements

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

16           B. The director shall enter into agreements on behalf of this state  
17 with political subdivisions or Indian tribes for the improvement or  
18 maintenance of state routes or for the joint improvement or maintenance of  
19 state routes.

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

26           1. Contain the commitment of the county to pay other monies for the  
27 purpose of financing the bridge.

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

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

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

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

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

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

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

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

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

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

~~F.~~ E. The department may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 that obligates the department to indemnify and defend a city, town, county, flood control district, irrigation district or agricultural improvement district or any other political subdivision or governmental agency against claims of liability for injuries, losses or damages incurred in any way as a result of the acts or omissions of the department, including acts, errors, omissions or mistakes of any person for which the department may be liable, and arising out of the construction, operation or maintenance of department projects or facilities or use of department projects or facilities. A city, town, county, flood control district, irrigation district or agricultural improvement district or any other political subdivision or governmental agency may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3 that obligates such an entity to indemnify and defend the department against claims of liability for injuries, losses or damages incurred in any way as a result of the acts or omissions of such entity, including acts, errors, omissions or mistakes of any person for which the entity may be liable, and arising out of the construction, operation or maintenance of projects or facilities or use of projects or facilities. Any indemnification pursuant to an intergovernmental agreement must be approved by state risk management in the department of administration.

1       Sec. 3. Section 28-481, Arizona Revised Statutes, is amended to  
2 read:

3       28-481. Definitions

4       In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

39       Sec. 4. Section 28-1176, Arizona Revised Statutes, is amended to  
40 read:

41       28-1176. Off-highway vehicle recreation fund; annual reports;  
42 definition

43       A. ~~Am~~ THE off-highway vehicle recreation fund is established. The  
44 fund consists of:

45       1. Monies appropriated by the legislature.

2. Monies deposited pursuant to ~~sections~~ SECTION 28-1177 and ~~28-5927~~ SECTION 42-5029, SUBSECTION F.

3. Federal grants and private gifts.

B. Monies in the off-highway vehicle recreation fund are appropriated to the Arizona state parks board solely for the purposes provided in this article. Interest earned on monies in the fund shall be credited to the fund. Monies in the off-highway vehicle recreation fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The Arizona game and fish department shall spend thirty-five ~~per cent~~ PERCENT of the monies in the off-highway vehicle recreation fund for informational and educational programs related to safety, the environment and responsible use with respect to off-highway vehicle recreation and law enforcement activities relating to this article and for off-highway vehicle law enforcement pursuant to title 17, chapter 4, article 3, including seven full-time employees to enforce this article and title 17, chapter 4, article 3.

D. The state land department shall spend five ~~per cent~~ PERCENT of the monies in the off-highway vehicle recreational fund to allow occupants of off-highway vehicles with user indicia to cross state trust land on existing roads, trails and designated routes. The state land department shall use these monies for costs associated with off-highway vehicle use of lands within its jurisdiction, to mitigate damage to the land, for necessary environmental, historical and cultural clearance or compliance activities and to fund enforcement of off-highway vehicle laws.

E. The Arizona state parks board shall spend sixty ~~per cent~~ PERCENT of the monies in the off-highway vehicle recreation fund for the following purposes:

1. No more than twelve ~~per cent~~ PERCENT to fund staff support to plan and administer the off-highway vehicle recreation fund.

2. To establish an off-highway vehicle program based on the priorities established in the off-highway vehicle recreational plan.

3. To designate, construct, maintain, renovate, repair or connect off-highway vehicle routes and trails and to designate, manage and acquire land for access roads, off-highway vehicle recreation facilities and off-highway vehicle use areas. After expenditures pursuant to paragraph 1 of this subsection, the Arizona state parks board shall not spend more than thirty-five ~~per cent~~ PERCENT of the remaining monies received pursuant to this subsection for construction of new off-highway vehicle trails.

4. For enforcement of off-highway vehicle laws.

5. For off-highway vehicle related informational and environmental education programs, information, signage, maps and responsible use programs.

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  
4 areas and off-highway vehicle routes and trails.

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

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

11           G. Monies in the off-highway vehicle recreation fund shall not be  
12 used to construct new off-highway vehicle trails or routes on  
13 environmentally or culturally sensitive land unless the appropriate land  
14 management agency determines that certain new trail construction would  
15 benefit or protect cultural or sensitive sites. For the purposes of this  
16 subsection, "environmentally or culturally sensitive land" means areas of  
17 lands that are 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  
30 projects with mitigation efforts and for projects that encompass a large  
31 number of purposes described in subsection E, paragraphs 3 through 7 of  
32 this section.

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

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

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

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

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

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

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

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

20           Sec. 5. Section 28-2232, Arizona Revised Statutes, is amended to  
21 read:

22           28-2232. International proportional registration authority;  
23                               rules

24           A. Except as otherwise provided in this article, the registration  
25 of fleet vehicles on a proportional basis without reference to or  
26 application of section 28-2051, 28-2052, 28-2321, 28-2322, 28-2323 or  
27 28-2324 or other statutes of this state relating to vehicle registration  
28 is authorized.

29           B. Sections 28-2161, ~~AND~~ 28-2162 ~~and 28-5724~~ and article 16 of  
30 this chapter apply to vehicles ~~THAT ARE~~ proportionally registered pursuant  
31 to this article.

32           C. This article does not require a vehicle to be proportionally  
33 registered if the vehicle is otherwise registered in this state for the  
34 operation in which the vehicle is engaged under section 28-2003, 28-2324,  
35 28-2325 or 28-5433 or any other law prescribing vehicle registration fees.

36           D. The director shall adopt rules necessary to administer and  
37 enforce this article.

38           Sec. 6. Section 28-5474, Arizona Revised Statutes, is amended to  
39 read:

40           28-5474. Axle fees; commercial vehicles; border crossing;  
41                               definition

42           A. The director may adopt rules establishing a fee based on the  
43 number of axles attached to a foreign vehicle or a foreign vehicle  
44 combination that is imposed on nonresidents operating or causing the  
45 operation of a foreign vehicle or foreign vehicle combination that enters

1 this state by crossing the border between this state and the republic of  
2 Mexico in the furtherance of a commercial enterprise.

3 B. If the director establishes a fee by rule pursuant to this  
4 section, the fee shall apply to a nonresident operating or causing the  
5 operation of a foreign vehicle or foreign vehicle combination and who is  
6 required to register the foreign vehicle or foreign vehicle combination  
7 pursuant to section 28-2321 or who is responsible for payment of any fees  
8 required by ~~sections~~ SECTION 28-2324, 28-2325, ~~28-5739, 28-5763~~ 28-5863 or  
9 28-5864.

10 C. The director shall deposit, pursuant to sections 35-146 and  
11 35-147, fees collected ~~by rules established~~ pursuant to this section in  
12 the safety enforcement and transportation infrastructure fund established  
13 by section 28-6547.

14 D. For the purposes of this section, "foreign vehicle" or "foreign  
15 vehicle combination" means a truck or truck tractor and semitrailer and  
16 any trailer that it tows that is registered in a foreign country or  
17 jurisdiction of a foreign country and enters this state by crossing the  
18 border between this state and the republic of Mexico in the furtherance of  
19 a commercial enterprise.

20 Sec. 7. Heading change

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

24 Sec. 8. Section 28-5601, Arizona Revised Statutes, is amended to  
25 read:

26 28-5601. Definitions

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

29 1. "Blending":

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

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

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

40 ~~3.~~ 2. "Bulk plant" means ~~a motor~~ AN AVIATION fuel storage and  
41 distribution facility that is not a terminal and from which ~~motor~~ AVIATION  
42 fuel may be removed at a rack.

43 ~~4.~~ 3. "Bulk transfer" means any transfer of ~~motor~~ AVIATION fuel  
44 from one location to another by pipeline tender or marine delivery within  
45 the bulk transfer terminal system.



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

~~6.~~ 5. "Consumer" means ~~the end purchaser of motor vehicle fuel for use on the highways in this state, the end purchaser of motor vehicle fuel for use in watercraft on waterways of this state or~~ the end purchaser of aviation fuel for use in aircraft.

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

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

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

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

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

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

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

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

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

~~16.~~ 10. "Invoiced gallons" means the gallons **THAT ARE** actually billed on an invoice in payment to a supplier.

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

~~18.~~ 11. "Motor fuel" means motor vehicle fuel, use fuel and aviation fuel.

~~19.~~ 12. "Motor vehicle" means a self-propelled vehicle required to be licensed or subject to licensing for operation on a highway.

~~20.~~ 13. "Permissive supplier" means an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to this article.

~~21.~~ 14. "Person" means an individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver or syndicate, this state, any county, city, town, district or other subdivision of this state, an Indian tribe, or any other group or combination acting as a unit.

~~22.~~ 15. "Position holder":

(a) Means the person who holds the inventory position in ~~motor~~ **AVIATION** fuel in a terminal, as reflected on the records of the terminal operator. For the purposes of this subdivision, "a person who holds the inventory position in ~~motor~~ **AVIATION** fuel" means a person who has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal.

(b) Includes a terminal operator who owns fuel in the terminal.

~~23. "Public monies" means those monies that are received by this state and that are derived all or in part from tax revenues or other funding sources.~~

~~24.~~ 16. "Qualified terminal" means a terminal that is designated as a qualified terminal pursuant to the United States internal revenue code, regulation and practices and that has been assigned a terminal control number by the United States internal revenue service.

~~25.~~ 17. "Rack" means a mechanism for delivering ~~motor~~ **AVIATION** fuel from a refinery, a terminal or a bulk plant into a railroad tank car, a transport truck or ~~other~~ **ANOTHER** means of transfer that is outside the bulk transfer terminal system.

~~26.~~ 18. "Refiner" means any person who owns, operates or otherwise controls a refinery within the United States.

~~27.~~ 19. "Refinery" means a facility that is used to produce ~~motor~~ AVIATION fuel from crude oil, unfinished oils, natural gas liquids, transmix or other hydrocarbons or by blending and from which ~~motor~~ AVIATION fuel may be removed by pipeline, by vessel or at a rack.

~~28. "Road tractor" means a motor vehicle that is designed and used for drawing other vehicles and that is not constructed to carry either a load independently or any part of the weight of a vehicle or load so drawn.~~

~~29.~~ 20. "Sell" includes a transfer of title or possession, exchange or barter in any manner or by any means.

~~30.~~ 21. "Supplier":

(a) Means a person who is registered pursuant to section 4101 of the United States internal revenue code for transactions in ~~motor~~ AVIATION fuels in the bulk transfer terminal distribution system and who is one of the following:

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

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

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

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

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

~~31.~~ 22. "Terminal" means a storage and distribution facility for ~~motor~~ AVIATION fuel, which is supplied by pipeline or marine vessel, that is registered as a qualified terminal by the United States internal revenue service and from which ~~motor~~ AVIATION fuel may be removed at a rack.

~~32. "Terminal bulk transfer" includes the following:~~

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

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

~~33.~~ 23. "Terminal operator" means any person who owns, operates or otherwise controls a terminal and who does not use a substantial portion of the ~~motor~~ AVIATION fuel that is transferred through or stored in the terminal for the person's own use or consumption or in the manufacture of

products other than ~~motor~~ AVIATION fuel. A terminal operator may own the ~~motor~~ AVIATION fuel that is transferred through or stored in the terminal.

~~34.~~ 24. "Transmix" means the buffer or interface between two different products in a pipeline shipment or a mix of two different products within a refinery or terminal that results in an off-grade mixture that is not usable or salable as ~~motor~~ AVIATION fuel.

~~35.~~ 25. "Two-party TWO-PARTY exchange" means a transaction:

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

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

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

(d) In which the terminal operator in the terminal operator's books and records treats the receiving exchange party as the supplier that removes the product across a terminal rack for purposes of reporting the events to the department.

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

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

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

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

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

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

3       28-5603. Aviation fuel testing

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

6       B. The chemistry department or other qualified department of the  
7 university of Arizona shall:

8       1. Analyze samples on request of the director.

9       2. Promptly furnish to the director a full report of the analysis  
10 without cost.

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

13       28-5604. Reward for detecting violations

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

22       Sec. 11. Repeal

23       Section ~~28-5605~~, Arizona Revised Statutes, is repealed.

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

26       28-5606. Imposition of aviation fuel taxes

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

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

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

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

41       ~~3. Through December 31, 2024, a use fuel tax is imposed on use fuel~~  
42 ~~used in the propulsion of a motor vehicle transporting forest products in~~  
43 ~~compliance with the requirements of section 41-1516 on a highway in this~~  
44 ~~state at the rate of nine cents for each gallon, except that there is no~~  
45 ~~use fuel tax on alternative fuels.~~

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

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

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

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

3. Is removed, as measured by invoiced gallons, from the bulk transfer terminal system or from a qualified terminal or refinery outside this state for delivery to a destination in this state as represented on the shipping papers if a supplier imports the ~~motor vehicle, use or~~ aviation fuel for the account of the supplier or the supplier has made a tax precollection election pursuant to section 28-5636.

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

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

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

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

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

2. A twenty-five dollar administrative processing fee.

B. A person who is not licensed as a supplier and who causes ~~motor~~ AVIATION fuel on which taxes have not been collected to be transported

1 from a point outside this state to a point in this state shall pay to the  
2 director the following:

- 3 1. The tax required by section ~~28-5606 or~~ 28-8344.
- 4 2. A penalty equal to the tax required by section ~~28-5606 or~~  
5 28-8344.
- 6 3. Interest of one ~~per cent~~ PERCENT per month or portion of a month  
7 on the tax.

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

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

12 28-5608. Fuel imported in fuel tanks; violation;  
13 classification

14 A. An owner or operator of ~~a motor vehicle, watercraft or~~ AN  
15 aircraft who imports ~~motor~~ AVIATION fuel into this state in the fuel tank  
16 or tanks of ~~a motor vehicle, watercraft or~~ THE aircraft in a quantity  
17 exceeding the capacity of the fuel tank or tanks of that ~~vehicle,~~  
18 ~~watercraft or~~ aircraft according to the manufacturer's stock  
19 specifications shall pay to the director the tax required of suppliers on  
20 the excess ~~motor~~ fuel.

21 B. A person who violates this section is guilty of a class 2  
22 misdemeanor.

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

25 28-5609. Railroad common carrier exemption; exception; report

26 A. Except for section 28-5607, subsection B, sections 28-5602,  
27 28-5603, 28-5608, 28-5610, 28-5611, 28-5612, 28-5622, 28-5624 and 28-5923  
28 and this section, this article does not apply to railroad common carriers  
29 that are not engaged in the business of a supplier for pecuniary gain.

30 B. A railroad common carrier:

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

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

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

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

1           3. Shall pay to the director at the time the report is made the tax  
2 required of suppliers by ~~this article~~ SECTION 28-8344.

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

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

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

9           28-5610. Exemptions

10          A. The following are exempt from ~~motor vehicle fuel and use fuel~~  
11 ~~taxes imposed by section 28-5606 and~~ aviation fuel taxes imposed by  
12 section 28-8344:

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

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

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

19           2. ~~Motor~~ AVIATION fuel that was acquired by a distributor, as to  
20 which the tax imposed by ~~this article or~~ section 28-8344 has previously  
21 been paid or accrued and that was subsequently exported by transport truck  
22 by or on behalf of the distributor in a diversion across state boundaries  
23 properly reported to the department. If diverted by a distributor, the  
24 distributor shall perfect the exemption by filing a refund application  
25 with the department within six months after the diversion.

26           ~~3. Motor vehicle fuel or use fuel that is sold within an Indian~~  
27 ~~reservation to an enrolled member of the Indian tribe who is living on the~~  
28 ~~Indian reservation established for the benefit of that Indian tribe and~~  
29 ~~that is used by the enrolled member for the enrolled member's own benefit.~~  
30 ~~This exemption does not apply to sales within an Indian reservation by an~~  
31 ~~Indian or Indian tribe to non-Indian consumers or to Indian consumers who~~  
32 ~~are not members of the Indian tribe for which the Indian reservation was~~  
33 ~~established or to use fuel used to operate motor vehicles for a commercial~~  
34 ~~purpose outside of the reservation on highways in this state. For the~~  
35 ~~purposes of this paragraph, "Indian" means an individual who is registered~~  
36 ~~on the tribal rolls of the Indian tribe for whose benefit the Indian~~  
37 ~~reservation was created.~~

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

42           ~~5.~~ 3. ~~Motor~~ AVIATION fuel that is moving in interstate or foreign  
43 commerce and that is not destined or diverted to a point in this state.

44           ~~6.~~ 4. ~~Motor vehicle or~~ Aviation fuel that is sold to the United  
45 States or an instrumentality or agency of the United States.



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

~~8. Dyed diesel fuel, including fuel used by either of the following:~~

~~(a) A farm tractor or implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved on a highway.~~

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

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

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

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

~~8. A use class vehicle shall pay the use fuel tax for light class motor vehicles prescribed by section 28-5606, subsection B, paragraph 1 if the vehicle is a truck and satisfies all of the following:~~

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

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

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

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

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

~~2. A dump truck.~~

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

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

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

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

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

Sec. 17. Section 28-5611, Arizona Revised Statutes, is amended to read:

28-5611. Refunds

A. Except as provided in subsection B of this section, on application to the director pursuant to this article and if section 28-5612 is complied with, a person who buys and uses motor vehicle AVIATION fuel shall receive a refund in the amount of the tax if the person pays the tax on the fuel and either:

~~1. Uses the fuel other than in any of the following:~~

~~(a) A motor vehicle on a highway in this state.~~

~~(b) Watercraft on the waterways of this state.~~

~~(c) A motor vehicle operating on a transportation facility or toll road pursuant to chapter 22 of this title.~~

~~2.~~ 1. Buys aviation fuel for use in aircraft applying seeds, fertilizer or pesticides.

~~3.~~ 2. Loses the fuel by fire, theft or other accident.

B. If a claim for refund is based on the use of ~~motor vehicle~~ fuel in aircraft, five cents of the tax collected on each gallon of ~~motor vehicle~~ fuel claimed shall remain in the state aviation fund, and the department shall refund the remainder of the tax pursuant to section 28-5612.

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

28-5612. Refund procedure; violation

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

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

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

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

(b) The tax paid purchase.

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

(a) ~~THE~~ name and address of the claimant.

(b) ~~THE~~ period covered by the claim showing dates.

(c) ~~THE~~ location of equipment, if applicable.

(d) Gallons on which a refund is claimed.

(e) ~~THE~~ amount of the refund claimed.

(f) Other information required by the director.

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

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

1. The date of purchase.

2. The seller's name and address.

3. The number of gallons purchased.

4. The type of fuel purchased.

5. The price per gallon of the fuel.

6. Other information required by the director.

D. If a person files a claim for a refund pursuant to this section for ~~motor~~ AVIATION fuel exported, the person shall make satisfactory proof of export to the director and file the claim within three months after the

1 date of export in the form and containing the information required by the  
2 director. The original invoice or an acceptable duplicate shall accompany  
3 the claim.

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

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

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

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

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

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

40 ~~K. I.~~ 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. J.~~ The director may recover excess refunds from the person to  
43 whom the refund was made. The director shall assess the claimant the  
44 amount of the excess refund and interest. The director shall compute  
45 interest at one ~~per cent~~ PERCENT per month of the amount of excess refund

1 due beginning on the date of refund and until the date the assessment is  
2 paid.

3 ~~M. The department of transportation shall deposit, pursuant to~~  
4 ~~sections 35-146 and 35-147, use tax revenues collected pursuant to~~  
5 ~~subsection F of this section in the state general fund by the end of each~~  
6 ~~month and notify the department of revenue of the amount of use tax~~  
7 ~~collected each 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  
12 section 28-5612, except that a licensee shall file an application for  
13 refund within three years after the date of purchase or invoice of the  
14 ~~motor~~ fuel for which a refund is claimed.

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

18 Sec. 20. Repeal

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

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

23 28-5618. Monthly statements

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

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

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

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

35 ~~4.~~ 3. Other information the director requires.

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

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

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

1       ~~3. The date shipped.~~  
2       ~~4. The date received.~~  
3       ~~5. How it was shipped.~~  
4       ~~6. Other information the director requires.~~  
5       ~~C.~~ B. A supplier may amend a ~~report~~ STATEMENT filed pursuant to  
6 this section within three years after the date the original ~~tax report~~  
7 STATEMENT was filed unless the ~~report~~ STATEMENT for the period is final  
8 due to an audit.  
9       ~~D.~~ C. If an amended ~~report~~ STATEMENT results in a reduction in  
10 taxes paid, the department shall credit the licensee's account unless the  
11 licensee files a written request for a refund.  
12       Sec. 22. Section 28-5619, Arizona Revised Statutes, is amended to  
13 read:  
14       28-5619. Records required; violation; classification  
15       A. Suppliers ~~and restricted distributors~~ shall maintain and keep  
16 records of ~~motor vehicle fuel or~~ aviation fuel received, acquired, used,  
17 sold and delivered in this state by the supplier ~~or restricted~~  
18 ~~distributor~~, the amount of tax paid as part of the purchase price,  
19 invoices, bills of lading and other pertinent records and papers required  
20 by the director for the reasonable administration of this article at least  
21 until the later of the following:  
22       1. Three years after a report is required to be filed pursuant to  
23 this article.  
24       2. Three years after a report is filed.  
25       B. Any person, ~~other than a restricted distributor~~, purchasing  
26 ~~motor vehicle fuel taxable under this article or~~ aviation fuel taxable  
27 under section 28-8344 from a supplier for the purpose of resale shall  
28 maintain and keep for one year a record of ~~motor vehicle fuel or~~ aviation  
29 fuel received, the amount of tax paid to the supplier as part of the  
30 purchase price, delivery tickets, invoices, bills of lading and other  
31 records the director requires.  
32       C. Each distributor ~~and vendor~~ shall maintain and keep for three  
33 years ~~the following~~:  
34       ~~1. Records of use fuel received, sold or delivered in this state by~~  
35 ~~the distributor or vendor.~~  
36       ~~2.~~ invoices, bills of lading and other pertinent records and papers  
37 required by the director for the reasonable administration of this  
38 article.  
39       ~~D. The director may require distributors to file information as to~~  
40 ~~sales or deliveries to vendors or users of use fuel at the times and in~~  
41 ~~the form as the director requires.~~  
42       ~~E.~~ D. A person who violates this section is guilty of a class 1  
43 misdemeanor.

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

3       28-5620. Records and equipment inspections; hearings; use  
4               restrictions; violation; costs

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

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

12       2. Ascertain whether the tax imposed by ~~this article or~~ section  
13 28-8344 has been paid.

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

16       4. Determine the validity of a refund.

17       B. In the enforcement of this article, the director may hold  
18 hearings, take testimony of persons, issue subpoenas for the purpose of  
19 taking testimony, compel attendance of witnesses and conduct  
20 investigations the director deems necessary.

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

24       D. Records required by this article may be maintained in this  
25 state. If the records are maintained outside this state and on request of  
26 the director, the records shall be made available at a location in this  
27 state designated by the director. If the records are maintained outside  
28 this state and will not be made available at the location designated by  
29 the director, the director may require the person to whom a records  
30 request has been made to pay in advance costs reimbursable for subsistence  
31 and travel expenses for the director or an agent of the director to  
32 conduct the examination of the records.

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

35       28-5622. Tax estimate

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

42       Sec. 25. Repeal

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

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

3       28-5624. Transportation of aviation fuel by motor vehicle;  
4       documentation; violation; penalties

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

10       B. The documentation shall include:

- 11       1. The date of shipment of the fuel.
- 12       2. The quantity and particular description of the fuel.
- 13       3. The names of the consignor and consignee.
- 14       4. The destination state of the fuel shipment.
- 15       5. Other information as the director requires.

16       C. An operator of a motor vehicle transporting ~~motor~~ AVIATION fuel  
17 in this state who fails to carry documentation at the time and in the  
18 manner required pursuant to subsection A of this section shall pay to the  
19 director a penalty of one hundred dollars for each shipment not  
20 accompanied by the required documentation in addition to payment of ~~the~~  
21 ~~tax required by section 28-5606 or~~ the tax prescribed in section 28-8344.  
22 An operator of a motor vehicle transporting ~~motor~~ AVIATION fuel may apply  
23 for abatement of the penalty pursuant to section 28-5934.

24       Sec. 27. Repeal

25       Section 28-5625, Arizona Revised Statutes, is repealed.

26       Sec. 28. Section 28-5626, Arizona Revised Statutes, is amended to  
27 read:

28       28-5626. Suppliers; licenses required

29       A. Except as provided in section 28-5607, a person who acts as a  
30 distributor and who possesses ~~motor~~ AVIATION fuel on which fuel taxes have  
31 not been accrued or collected by a supplier shall be licensed as a  
32 supplier.

33       B. It is unlawful for a person to engage in business in this state  
34 as a supplier, unless the person has a license issued by the director to  
35 engage in that business.

36       ~~C. A person who sells use fuel for delivery directly into a vehicle~~  
37 ~~fuel tank shall also be licensed as a vendor and shall maintain separate~~  
38 ~~business records.~~

39       Sec. 29. Section 28-5634, Arizona Revised Statutes, is amended to  
40 read:

41       28-5634. Bond cancellation

42       If the license of a supplier is ~~cancelled~~ CANCELED by the director  
43 pursuant to section 28-5633 and if the supplier has paid all taxes due and  
44 payable by the supplier as required by ~~this article or~~ section 28-8344 on  
45 the receipt, sale or use of ~~motor vehicle fuel or~~ aviation fuel and has

1 paid all interest and penalties accruing by reason of the supplier's  
2 failure to make accurate reports or to pay the tax and interest and  
3 penalties, the director shall cancel and surrender the bond filed by the  
4 supplier.

5 Sec. 30. Section 28-5636, Arizona Revised Statutes, is amended to  
6 read:

7 28-5636. Supplier blanket election

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

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

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

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

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

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

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



1           Sec. 31. Section 28-5637, Arizona Revised Statutes, is amended to  
2 read:

3           28-5637. Collection of tax from purchaser; deferred  
4                                   remittance election

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

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

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

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

25           Sec. 32. Section 28-5638, Arizona Revised Statutes, is amended to  
26 read:

27           28-5638. Deferred remittance election eligibility

28           A. Each purchaser that desires to make an election under section  
29 28-5637 shall present evidence to the department that either:

30           1. The applicant was a licensed distributor in good standing before  
31 January 1, 1998.

32           2. The applicant meets the financial responsibility and bonding  
33 requirements imposed by this article. The bond shall conform to the  
34 specific requirements of this section.

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

41           C. The department may rescind a purchaser's eligibility and  
42 election to defer ~~motor vehicle or~~ aviation fuel tax remittances after a  
43 hearing and on a showing of good cause, including failure to make a timely  
44 tax deferred payment of tax to a supplier under section 28-5637, by  
45 sending written notice to all suppliers or publishing notice of the

1 revocation pursuant to rules. The department may require further assurance  
2 of the financial responsibility of the purchaser, may increase the bond  
3 requirement for that purchaser or may take any other action that the  
4 department may require to ensure remittance of the ~~motor vehicle or~~  
5 aviation fuel tax.

6 Sec. 33. Section 28-5639, Arizona Revised Statutes, is amended to  
7 read:

8 28-5639. Uncollectible tax credit

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

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

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

19 D. The credit shall be claimed on the first return after the  
20 expiration of the ~~thirty day~~ THIRTY-DAY period if the payment remains  
21 unpaid as of the filing date of that return or the credit is disallowed.

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

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

28 G. An additional credit shall not be allowed to a supplier under  
29 this section until the department authorizes the purchaser under section  
30 28-5638 to make a new election.

31 Sec. 34. Section 28-5644, Arizona Revised Statutes, is amended to  
32 read:

33 28-5644. Terminal operator; joint and several liability

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

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

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

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

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

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

6           Sec. 35. Repeal

7           A. Sections ~~28-5645, 28-5646, 28-5647, 28-5648 and 28-5649~~, Arizona  
8 Revised Statutes, are repealed.

9           B. Title 28, chapter 16, article 2, Arizona Revised Statutes, is  
10 repealed.

11          Sec. 36. Section 28-5801, Arizona Revised Statutes, is amended to  
12 read:

13          ~~28-5801.~~ Vehicle license tax rate

14          A. At the time of application for and before registration each year  
15 of a vehicle, the registering officer shall collect the vehicle license  
16 tax imposed by article IX, section 11, Constitution of Arizona. On the  
17 taxpayer's vehicle license tax bill, the registering officer shall provide  
18 the taxpayer with ~~the following:~~

19           ~~1.~~ information showing the amount of the vehicle license tax that  
20 each category of recipient will receive and the amount that is owed by the  
21 taxpayer.

22           ~~2. The amount of vehicle license tax the taxpayer would pay~~  
23 ~~pursuant to section 28-5805 if the taxpayer's motor vehicle was powered by~~  
24 ~~alternative fuel.~~

25          B. Except as provided in subsections C, D, ~~and~~ E AND F of this  
26 section:

27           1. During the first twelve months of the life of a vehicle as  
28 determined by its initial registration, the vehicle license tax is based  
29 on each one hundred dollars in value, the value of the vehicle is sixty  
30 ~~per cent~~ PERCENT of the manufacturer's base retail price of the vehicle  
31 and the vehicle license tax rate for each of the recipients is as follows:

32           (a) The rate for the Arizona highway user revenue fund is one  
33 dollar twenty-six cents.

34           (b) The rate for the county general fund is sixty-nine cents.

35           (c) The rate for counties for any purposes related to  
36 transportation, as determined by the board of supervisors, is sixteen  
37 cents.

38           (d) The rate for incorporated cities and towns is sixty-nine cents.

39           2. During each succeeding ~~twelve month~~ TWELVE-MONTH period, the  
40 vehicle license tax is based on each one hundred dollars in value, the  
41 value of the vehicle is 16.25 ~~per cent~~ PERCENT less than the value for the  
42 preceding ~~twelve month~~ TWELVE-MONTH period and the vehicle license tax  
43 rate for each of the recipients is as follows:

44           (a) The rate for the Arizona highway user revenue fund is one  
45 dollar thirty cents.

1 (b) The rate for the county general fund is seventy-one cents.  
2 (c) The rate for counties for the same use as highway user revenue  
3 fund monies is seventeen cents.  
4 (d) The rate for incorporated cities and towns is seventy-one  
5 cents.  
6 3. The minimum amount of the vehicle license tax computed under  
7 this section is ten dollars per year for each vehicle that is subject to  
8 the tax. If the product of all of the rates prescribed in paragraph 1 or  
9 2 of this subsection is less than ten dollars, the vehicle license tax is  
10 ten dollars. The vehicle license tax collected pursuant to this paragraph  
11 shall be distributed to the recipients prescribed in this subsection based  
12 on the percentage of each recipient's rate to the sum of all of the rates.  
13 C. The vehicle license tax is as follows for noncommercial trailers  
14 that are not travel trailers and that are ten thousand pounds or less  
15 gross vehicle weight:  
16 1. On initial registration, a ~~one-time~~ ONETIME vehicle license tax  
17 of one hundred five dollars.  
18 2. On renewal of registration, a ~~one-time~~ ONETIME vehicle license  
19 tax of seventy dollars.  
20 D. The vehicle license tax is as follows for a trailer or  
21 semitrailer that is not a travel trailer and that exceeds ten thousand  
22 pounds gross vehicle weight:  
23 1. On initial registration, a ~~one-time~~ ONETIME vehicle license tax  
24 of five hundred fifty-five dollars.  
25 2. On renewal of registration or if previously registered in  
26 another state, a ~~one-time~~ ONETIME vehicle license tax of:  
27 (a) If the trailer's or semitrailer's model year is less than six  
28 years old, three hundred fifty-five dollars.  
29 (b) If the trailer's or semitrailer's model year is at least six  
30 years old, one hundred dollars.  
31 E. The vehicle license tax for an all-terrain vehicle or  
32 off-highway vehicle as defined in section 28-1171 is three dollars if the  
33 all-terrain vehicle or off-highway vehicle meets both of the following  
34 criteria:  
35 1. Is designed by the manufacturer primarily for travel over  
36 unimproved terrain.  
37 2. Has an unladen weight of eighteen hundred pounds or less.  
38 F. A VEHICLE THAT IS POWERED BY ALTERNATIVE FUEL IS SUBJECT TO THE  
39 VEHICLE LICENSE TAX AS PRESCRIBED BY SUBSECTION B OF THIS SECTION PLUS AN  
40 ADDITIONAL ONE HUNDRED DOLLARS TO BE COLLECTED AS PRESCRIBED BY SUBSECTION  
41 A OF THIS SECTION.  
42 ~~F.~~ G. The vehicle license tax collected pursuant to subsection C,  
43 D, ~~or~~ E OR F of this section shall be distributed to the recipients  
44 prescribed in subsection B of this section based on the percentage of each  
45 recipient's rate to the sum of all of the rates.

~~6.~~ H. For the purposes of ~~subsection~~ SUBSECTIONS C and D of this section, "travel trailer" has the same meaning prescribed in section 28-2003.

Sec. 37. Repeal

Section 28-5805, Arizona Revised Statutes, is repealed.

Sec. 38. Section 28-5808, Arizona Revised Statutes, is amended to read:

28-5808. Vehicle license tax distribution

A. Except as provided in subsection D of this section, the director shall distribute monies collected by the director pursuant to section 28-5801, except monies deposited in the state general fund, on the first and fifteenth calendar day of each month as follows:

1. On the first calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, all of the Arizona highway user revenue fund monies received from the first through the fifteenth calendar day of the preceding month in the Arizona highway user revenue fund, except that on the first calendar day the director shall deposit, pursuant to sections 35-146 and 35-147, in the parity compensation fund established by section 41-1720, 1.51 ~~per cent~~ PERCENT of the portion of vehicle license tax revenues that otherwise would be deposited in the state highway fund from the first through the fifteenth calendar day of the preceding month.

2. On the fifteenth calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, all of the Arizona highway user revenue fund monies received from the sixteenth through the last day of the preceding month in the Arizona highway user revenue fund, except that on the fifteenth calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, in the parity compensation fund established by section 41-1720, 1.51 ~~per cent~~ PERCENT of the portion of vehicle license tax revenues that otherwise would be deposited in the state highway fund from the sixteenth through the last day of the preceding month. On the fifteenth calendar day, the director shall distribute or deposit all other monies received during the entire preceding month as follows:

(a) The county general fund monies to the county general fund.

(b) The county transportation monies to the state treasurer to be apportioned among the counties for any purposes related to transportation, as determined by the board of supervisors, on the basis that the population of the unincorporated area of each county bears to the population of the unincorporated areas of all counties in this state.

(c) The incorporated cities and towns monies to the incorporated cities and towns of the county in proportion to the population of each.

3. The deposit of the monies in the parity compensation fund pursuant to paragraphs 1 and 2 of this subsection shall not impact the distribution of vehicle license tax revenues to the state general fund and to cities, towns and counties pursuant to this section.

1 B. The director shall distribute monies collected by the director  
 2 pursuant to sections 28-5804, ~~28-5805~~, 28-5806 and 28-5810, except monies  
 3 deposited in the state general fund, on the first and fifteenth calendar  
 4 day of each month as follows:

5 1. On the first calendar day, the director shall deposit, pursuant  
 6 to sections 35-146 and 35-147, 37.61 ~~per cent~~ PERCENT of all monies  
 7 received from the first through the fifteenth calendar day of the  
 8 preceding month in the highway user revenue fund.

9 2. On the fifteenth calendar day, the director shall deposit,  
 10 pursuant to sections 35-146 and 35-147, 37.61 ~~per cent~~ PERCENT of all  
 11 monies received from the sixteenth through the last day of the preceding  
 12 month in the highway user revenue fund and distribute or deposit the  
 13 following amounts as a percentage of all monies received pursuant to  
 14 sections 28-5804, ~~28-5805~~, 28-5806 and 28-5810 during the entire preceding  
 15 month as follows:

16 (a) 20.45 ~~per cent~~ PERCENT to the county general fund.

17 (b) 4.91 ~~per cent~~ PERCENT to the state treasurer to be apportioned  
 18 among the counties for any purposes related to transportation, as  
 19 determined by the board of supervisors, on the basis that the population  
 20 of the unincorporated area of each county bears to the population of the  
 21 unincorporated areas of all counties in this state.

22 (c) 20.45 ~~per cent~~ PERCENT to the incorporated cities and towns of  
 23 the county in proportion to the population of each.

24 (d) 1.64 ~~per cent~~ PERCENT, pursuant to sections 35-146 and 35-147,  
 25 in the state highway fund established by section 28-6991.

26 (e) 4.09 ~~per cent~~ PERCENT in the state highway fund established by  
 27 section 28-6991.

28 (f) 10.85 ~~per cent~~ PERCENT, pursuant to sections 35-146 and 35-147,  
 29 in the state general fund to aid school financial assistance.

30 C. For purposes of this section the population of a county, city or  
 31 town shall be determined as provided by section 28-6532 or 42-5033.01. If  
 32 an incorporated city or town has had no federal enumeration of population,  
 33 the supervisors shall both:

34 1. Appoint a qualified person to take an accurate census of the  
 35 incorporated city or town.

36 2. Certify the results to the county treasurer, and the  
 37 incorporated city or town shall share in the distribution as provided by  
 38 this section.

39 D. On the fifteenth calendar day of each month, the director shall  
 40 transfer to the state general fund from the portion of vehicle license tax  
 41 revenues that otherwise would be deposited in the state highway fund  
 42 pursuant to section 28-6538, subsection A, paragraph 1 the following  
 43 amounts:

44 1. An amount equal to ninety ~~per cent~~ PERCENT of the fees collected  
 45 pursuant to section 28-4802, subsection A in the preceding month.

2. An amount equal to sixty ~~per cent~~ PERCENT of the fees collected pursuant to section 28-4802, subsection B in the preceding month.

E. On the fifteenth calendar day of each month, the director shall transfer to the state general fund from the portion of vehicle license tax revenues that otherwise would be deposited in the state highway fund pursuant to section 28-6538, subsection A, paragraph 1 the difference between the actual amount of the vehicle license tax revenue collected as a result of registration of vehicles pursuant to section 28-2159 in the preceding month for a five-year registration period and the amount that would have been collected if those same vehicles had been registered for a two-year vehicle registration period.

Sec. 39. Section 28-5925, Arizona Revised Statutes, is amended to read:

28-5925. Payment; distribution

A. The supplier, as shown in the records of the terminal operator, who removes the taxable gallons shall precollect and remit on behalf of consumers ~~and users~~ to the department the taxes that are imposed by ~~sections 28-5606 and~~ SECTION 28-8344 and that are measured by the invoiced gallons of ~~motor~~ AVIATION fuel removed by a licensed supplier from a terminal or refinery in this state other than a bulk transfer.

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

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

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

E. On payment, the director shall promptly:

~~1. Deposit motor fuel tax monies as prescribed in sections 28-5926 and 28-5927.~~

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

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

Sec. 40. Repeal

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

1           Sec. 41. Section 28-6001, Arizona Revised Statutes, is amended to  
2 read:

3           28-6001. Underground storage tank tax; periodic payments

4           ~~A.~~ A person who is responsible for collecting ~~the motor vehicle~~  
5 ~~fuel tax imposed by section 28-5606 or~~ the aviation fuel tax imposed by  
6 section 28-8344 shall make periodic payments of the underground storage  
7 tank tax imposed by title 49, chapter 6, article 2 to the director of the  
8 department of transportation.

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

17          Sec. 42. Section 28-6003, Arizona Revised Statutes, is amended to  
18 read:

19          28-6003. Payment procedure; return form

20          A. A person shall:

21           1. Make the payments to the director of the department of  
22 transportation that are required by section 28-6001 at the same time and  
23 in the same manner as the ~~motor vehicle~~ AVIATION fuel tax.

24           2. Include a return form prescribed by the director of the  
25 department of environmental quality indicating:

26           (a) The time period to which the return applies.

27           (b) The quantity of fuel used to measure the tax, less exclusions  
28 for exports, shrinkage, loss and other exclusions as the director of the  
29 department of environmental quality may allow by rule.

30           (c) The amount of the underground storage tank tax payment.

31           (d) The amount of any deductions taken pursuant to section 28-6004.

32           (e) Any other information required by the director of the  
33 department of environmental quality.

34          B. A taxpayer is not required to obtain a separate license for tax  
35 payments under this article.

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

38          28-6006. Administration same as for aviation vehicle fuel tax

39          A. Section 28-5607, subsection B, sections 28-5602, 28-5603,  
40 28-5619, 28-5620, 28-5621 and 28-5622 and article 5 of this chapter apply  
41 to the persons from whom the underground storage tank tax is collected  
42 pursuant to section 28-6001 so that the underground storage tank tax is  
43 administered in the same manner as ~~motor~~ AVIATION fuel taxes.

44          B. Penalties, late filing fees and interest collected by the  
45 department of transportation shall be remitted to the director of the



1 department of environmental quality in the same manner as the tax  
2 collected pursuant to this article.

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

5 28-6501. Definition of highway user revenues

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

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

11 (a) The special plate administration fees prescribed in sections  
12 28-2404, 28-2407, 28-2412 through 28-2462 and 28-2514.

13 (b) The donations prescribed in sections 28-2404, 28-2407, 28-2412  
14 through 28-2415, 28-2417 through 28-2462, 28-2473, 28-2474 and 28-2475.

15 2. Section 28-1177.

16 3. Chapters 10 and 11 of this title.

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

19 5. TRANSACTION PRIVILEGE TAX REVENUES FROM THE RETAIL MOTOR VEHICLE  
20 FUEL CLASSIFICATION AS PROVIDED BY SECTION 42-5029, SUBSECTION F.

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

23 28-6540. Arizona highway user revenue fund distribution;  
24 county, city and town proportions

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

28 1. Revenues allocated to the counties shall be further distributed  
29 to each individual county as follows:

30 (a) Seventy-two percent based on the proportion that all reported  
31 sales of motor vehicle fuel ~~subject to sections 28-5619 and 28-5620~~ and  
32 the estimated consumption of use fuel in the county bear to the total  
33 sales of motor vehicle fuel and the estimated consumption of use fuel  
34 throughout this state during the preceding calendar month.

35 (b) Twenty-eight percent based on the proportion that the  
36 population of the unincorporated area of each county bears to the  
37 population of the unincorporated areas of all counties in this state.

38 2. Revenues allocated to the incorporated cities and towns pursuant  
39 to section 28-6538, subsection A, paragraph 3 shall be distributed on the  
40 basis of the following apportionments:

41 (a) One-half shall be apportioned to each city or town on the basis  
42 that the population of each bears to the population of all cities and  
43 towns in this state.

44 (b) The remaining one-half shall be apportioned first on the basis  
45 of the county origin of all reported sales of motor vehicle fuels in this

1 state ~~subject to sections 28-5619 and 28-5620~~, which amount shall be  
 2 further apportioned among the several incorporated cities and towns in  
 3 each county in the proportion that the population of each city or town  
 4 bears to the total population of all cities and towns in the county.

5 3. Revenues allocated to incorporated cities with a population of  
 6 three hundred thousand or more persons shall be apportioned among the  
 7 cities for the acquisition of rights-of-way or construction of streets or  
 8 highways based on population.

9 Sec. 46. Section 28-6547, Arizona Revised Statutes, is amended to  
 10 read:

11 28-6547. Safety enforcement and transportation infrastructure  
 12 fund; subaccounts; exemption from lapsing

13 A. The safety enforcement and transportation infrastructure fund is  
 14 established. The fund consists of monies deposited pursuant to sections  
 15 28-2321, 28-2324, 28-2325, 28-5474, ~~28-5739~~, 28-5863 and 28-5864. The  
 16 department shall administer the fund.

17 B. The department of transportation subaccount is established  
 18 within the safety enforcement and transportation infrastructure fund  
 19 consisting of fifty-five percent of the monies that are deposited into the  
 20 fund each month. The department of public safety subaccount is established  
 21 within the safety enforcement and transportation infrastructure fund  
 22 consisting of forty-five percent of the monies that are deposited into the  
 23 fund each month. Monies in the subaccounts are subject to legislative  
 24 appropriation.

25 C. Monies in the fund shall be spent on the following:

26 1. Enforcement of vehicle safety requirements by the department of  
 27 public safety and the department of transportation within twenty-five  
 28 miles of the border between Arizona and Mexico.

29 2. Costs related to the procurement of electronic equipment,  
 30 automated systems or improvements to existing electronic equipment or  
 31 automated systems for relieving vehicle congestion at ports of entry on  
 32 the border between this state and Mexico.

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

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

40 5. Activities of the department that include the collection of  
 41 transportation and trade data in the United States and Mexico for the  
 42 purposes of constructing transportation facilities, improving public  
 43 safety, improving truck processing time and relieving congestion at ports  
 44 of entry on the border between Arizona and Mexico. The department may

enter into an agreement with the Arizona-Mexico commission and provide funding to the commission for the purposes contained in this paragraph.

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

D. If the department of transportation determines that activities proposed by the Arizona department of homeland security may improve traffic safety in this state, the department of transportation may enter into an agreement with, and provide, subject to legislative appropriation, department of transportation subaccount monies to the Arizona department of homeland security for the purposes contained in this subsection.

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

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

Sec. 47. Section 41-194.01, Arizona Revised Statutes, is amended to read:

41-194.01. Violations of state law by counties, cities and towns; attorney general investigation; report; withholding of state shared revenues

A. At the request of one or more members of the legislature, the attorney general shall investigate any ordinance, regulation, order or other official action adopted or taken by the governing body of a county, city or town that the member alleges violates state law or the Constitution of Arizona.

B. The attorney general shall make a written report of findings and conclusions as a result of the investigation within thirty days after receipt of the request and shall provide a copy of the report to the governor, the president of the senate, the speaker of the house of representatives, the member or members of the legislature making the original request and the secretary of state. If the attorney general concludes that the ordinance, regulation, order or other action under investigation:

1. Violates any provision of state law or the Constitution of Arizona, the attorney general shall provide notice to the county, city or town, by certified mail, of the violation and shall indicate that the county, city or town has thirty days to resolve the violation. If the attorney general determines that the county, city or town has failed to resolve the violation within thirty days, the attorney general shall:

(a) Notify the state treasurer who shall withhold and redistribute state shared monies from the county, city or town as provided by section 42-5029, subsection ~~F~~ M and from the city or town as provided by section 43-206, subsection F.

1 (b) Continue to monitor the response of the governing body, and  
2 when the offending ordinance, regulation, order or action is repealed or  
3 the violation is otherwise resolved, the attorney general shall notify:

4 (i) The governor, the president of the senate, the speaker of the  
5 house of representatives and the member or members of the legislature  
6 making the original request that the violation has been resolved.

7 (ii) The state treasurer to restore the distribution of state  
8 shared revenues to the county, city or town.

9 2. May violate a provision of state law or the Constitution of  
10 Arizona, the attorney general shall file a special action in THE supreme  
11 court to resolve the issue, and the supreme court shall give the action  
12 precedence over all other cases. The court shall require the county, city  
13 or town to post a bond equal to the amount of state shared revenue paid to  
14 the county, city or town pursuant to ~~section~~ SECTIONS 42-5029 and 43-206  
15 in the preceding six months.

16 3. Does not violate any provision of state law or the Constitution  
17 of Arizona, the attorney general shall take no further action pursuant to  
18 this section.

19 Sec. 48. Section 42-5010, Arizona Revised Statutes, is amended to  
20 read:

21 42-5010. Rates; distribution base

22 A. The tax imposed by this article is levied and shall be collected  
23 at the following rates:

24 1. Five percent of the tax base as computed for the business of  
25 every person engaging or continuing in this state in the following  
26 business classifications described in article 2 of this chapter:

27 (a) Transporting classification.

28 (b) Utilities classification.

29 (c) Telecommunications classification.

30 (d) Pipeline classification.

31 (e) Private car line classification.

32 (f) Publication classification.

33 (g) Job printing classification.

34 (h) Prime contracting classification.

35 (i) Amusement classification.

36 (j) Restaurant classification.

37 (k) Personal property rental classification.

38 (l) Retail classification and amounts equal to retail transaction  
39 privilege tax due pursuant to section 42-5008.01.

40 2. Five and one-half percent of the tax base as computed for the  
41 business of every person engaging or continuing in this state in:

42 (a) The transient lodging classification described in section  
43 42-5070.

1 (b) The online lodging marketplace classification described in  
2 section 42-5076 who has entered into an agreement with the department to  
3 register for, or has otherwise obtained from the department, a license to  
4 collect tax pursuant to section 42-5005, subsection L.

5 3. Three and one-eighth percent of the tax base as computed for the  
6 business of every person engaging or continuing in this state in the  
7 mining classification described in section 42-5072.

8 4. Zero percent of the tax base as computed for the business of  
9 every person engaging or continuing in this state in the commercial lease  
10 classification described in section 42-5069.

11 5. EIGHT PERCENT OF THE TAX BASE AS COMPUTED FOR THE BUSINESS OF  
12 EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE RETAIL MOTOR  
13 VEHICLE FUEL CLASSIFICATION DESCRIBED IN SECTION 42-5077.

14 B. Except as provided by subsection J of this section, twenty  
15 percent of the tax revenues collected at the rate prescribed by subsection  
16 A, paragraph 1 of this section from persons on account of engaging in  
17 business under the business classifications listed in subsection A,  
18 paragraph 1, subdivisions (a) through (h) of this section is designated as  
19 distribution base for purposes of section 42-5029.

20 C. Forty percent of the tax revenues collected at the rate  
21 prescribed by subsection A, paragraph 1 of this section from persons on  
22 account of engaging in business under the business classifications listed  
23 in subsection A, paragraph 1, subdivisions (i) through (l) of this section  
24 is designated as distribution base for purposes of section 42-5029.

25 D. Thirty-two percent of the tax revenues collected from persons on  
26 account of engaging in business under the business classification listed  
27 in subsection A, paragraph 3 of this section is designated as distribution  
28 base for purposes of section 42-5029.

29 E. Fifty-three and one-third percent of the tax revenues collected  
30 from persons on account of engaging in business under the business  
31 classification listed in subsection A, paragraph 4 of this section is  
32 designated as distribution base for purposes of section 42-5029.

33 F. Fifty percent of the tax revenues collected from persons on  
34 account of engaging in business under the business classification listed  
35 in subsection A, paragraph 2 of this section is designated as distribution  
36 base for purposes of section 42-5029.

37 G. In addition to the rates prescribed by subsection A of this  
38 section, if approved by the qualified electors voting at a statewide  
39 general election, an additional rate increment is imposed and shall be  
40 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to  
41 this subsection at the same time and in the same manner as under  
42 subsection A of this section. The department shall separately account for  
43 the revenues collected with respect to the rates imposed pursuant to this  
44 subsection and the state treasurer shall distribute all of those revenues  
45 in the manner prescribed by section 42-5029, subsection E. The rates

1 imposed pursuant to this subsection shall not be considered local revenues  
2 for purposes of article IX, section 21, Constitution of Arizona. The  
3 additional tax rate increment is levied at the rate of six-tenths of one  
4 per cent of the tax base of every person engaging or continuing in this  
5 state in a business classification listed in subsection A, paragraph 1 of  
6 this section.

7 H. Any increase in the rate of tax that is imposed by this chapter  
8 and that is enacted by the legislature or by a vote of the people does not  
9 apply with respect to contracts entered into by prime contractors or  
10 pursuant to written bids made by prime contractors on or before the  
11 effective date of the legislation or the date of the election enacting the  
12 increase. To qualify for the exemption under this subsection, the prime  
13 contractor must maintain sufficient documentation, in a manner and form  
14 prescribed by the department, to verify the date of the contract or  
15 written bid.

16 I. For taxpayers taxable under this chapter other than prime  
17 contractors taxable pursuant to section 42-5075:

18 1. Any increase in the rate of tax that is levied by this article  
19 or article 2 of this chapter enacted by the legislature or by a vote of  
20 the people does not apply for a period of one hundred twenty days from the  
21 date of the tax rate increase to the gross proceeds of sales or gross  
22 income from the business of the taxpayer with respect to written contracts  
23 entered into before the effective date of the tax rate increase unless the  
24 taxpayer has entered into a contract that contains a provision that  
25 entitles the taxpayer to recover from the purchaser the amount of the  
26 additional tax levied.

27 2. The provisions of this subsection apply without regard to the  
28 accounting method used by the taxpayer to report the taxes imposed under  
29 article 2 of this chapter.

30 3. The provisions of this subsection shall not be considered in  
31 determining the rate of tax imposed under chapter 6, article 3 of this  
32 title.

33 J. Zero percent of the tax revenues that are collected at the rate  
34 prescribed by subsection A, paragraph 1 of this section from persons on  
35 account of engaging in business under the business classification listed  
36 in subsection A, paragraph 1, subdivision (h) of this section, and that  
37 are subject to any distribution required by section 42-5032.02, is  
38 designated as distribution base for the purposes of section 42-5029 until  
39 the total amount subject to distribution pursuant to section 42-5032.02  
40 has reached the maximum amount prescribed by section 42-5032.02,  
41 subsection C. Thereafter, twenty percent of the remaining tax revenues is  
42 designated as distribution base for the purposes of section 42-5029 as  
43 provided by subsection B of this section.

1       Sec. 49. Section 42-5029, Arizona Revised Statutes, is amended to  
2 read:

3       42-5029. Remission and distribution of monies; withholding;  
4               definition

5       A. The department shall deposit, pursuant to sections 35-146 and  
6 35-147, all revenues collected under this article and articles 4, 5 and 8  
7 of this chapter pursuant to section 42-1116, separately accounting for:

- 8           1. Payments of estimated tax under section 42-5014, subsection D.
- 9           2. Revenues collected pursuant to section 42-5070.

10          3. Revenues collected under this article and article 5 of this  
11 chapter from and after June 30, 2000 from sources located on Indian  
12 reservations in this state.

13          4. Revenues collected pursuant to section 42-5010, subsection G and  
14 section 42-5155, subsection D.

15       5. REVENUES COLLECTED AND PAID PURSUANT TO SECTION 42-5010,  
16 SUBSECTION A, PARAGRAPH 5.

17       B. The department shall credit payments of estimated tax to an  
18 estimated tax clearing account and each month shall transfer all monies in  
19 the estimated tax clearing account to a fund designated as the transaction  
20 privilege and severance tax clearing account. The department shall credit  
21 all other payments to the transaction privilege and severance tax clearing  
22 account, separately accounting for the monies designated as distribution  
23 base under sections 42-5010, 42-5164 and 42-5205. Each month the  
24 department shall report to the state treasurer the amount of monies  
25 collected pursuant to this article and articles 4, 5 and 8 of this  
26 chapter.

27       C. On notification by the department, the state treasurer shall  
28 distribute the monies deposited in the transaction privilege and severance  
29 tax clearing account in the manner prescribed by this section and by  
30 sections 42-5164 and 42-5205, after deducting warrants drawn against the  
31 account pursuant to sections 42-1118 and 42-1254.

32       D. Of the monies designated as distribution base, and subject to  
33 the requirements of section 42-5041, the department shall:

34           1. Pay twenty-five percent to the various incorporated  
35 municipalities in this state in proportion to their population to be used  
36 by the municipalities for any municipal purpose.

37           2. Pay 38.08 percent to the counties in this state by averaging the  
38 following proportions:

39           (a) The proportion that the population of each county bears to the  
40 total state population.

41           (b) The proportion that the distribution base monies collected  
42 during the calendar month in each county under this article, section  
43 42-5164, subsection B and section 42-5205, subsection B bear to the total  
44 distribution base monies collected under this article, section 42-5164,

subsection B and section 42-5205, subsection B throughout the state for the calendar month.

3. Pay an additional 2.43 percent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B and section 42-5205, subsection B bear to the total distribution base monies collected under this article, section 42-5164, subsection B and section 42-5205, subsection B throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount the legislature shall annually appropriate to:

(a) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

(b) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.



1 (c) The firearms safety and ranges fund established by section  
2 17-273, fifty thousand dollars derived from the taxes collected from the  
3 retail classification pursuant to section 42-5061 for the current fiscal  
4 year.

5 E. If approved by the qualified electors voting at a statewide  
6 general election, all monies collected pursuant to section 42-5010,  
7 subsection G and section 42-5155, subsection D shall be distributed each  
8 fiscal year pursuant to this subsection. The monies distributed pursuant  
9 to this subsection are in addition to any other appropriation, transfer or  
10 other allocation of public or private monies from any other source and  
11 shall not supplant, replace or cause a reduction in other school district,  
12 charter school, university or community college funding sources. The  
13 monies shall be distributed as follows:

14 1. If there are outstanding state school facilities revenue bonds  
15 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
16 amount that is necessary to pay the fiscal year's debt service on  
17 outstanding state school improvement revenue bonds for the current fiscal  
18 year shall be transferred each month to the school improvement revenue  
19 bond debt service fund established by section 15-2084. The total amount  
20 of bonds for which these monies may be allocated for the payment of debt  
21 service shall not exceed a principal amount of eight hundred million  
22 dollars exclusive of refunding bonds and other refinancing obligations.

23 2. After any transfer of monies pursuant to paragraph 1 of this  
24 subsection, twelve per cent of the remaining monies collected during the  
25 preceding month shall be transferred to the technology and research  
26 initiative fund established by section 15-1648 to be distributed among the  
27 universities for the purpose of investment in technology and  
28 research-based initiatives.

29 3. After the transfer of monies pursuant to paragraph 1 of this  
30 subsection, three per cent of the remaining monies collected during the  
31 preceding month shall be transferred to the workforce development account  
32 established in each community college district pursuant to section 15-1472  
33 for the purpose of investment in workforce development programs.

34 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
35 this subsection, one-twelfth of the amount a community college that is  
36 owned, operated or chartered by a qualifying Indian tribe on its own  
37 Indian reservation would receive pursuant to section 15-1472, subsection  
38 D, paragraph 2 if it were a community college district shall be  
39 distributed each month to the treasurer or other designated depository of  
40 a qualifying Indian tribe. Monies distributed pursuant to this paragraph  
41 are for the exclusive purpose of providing support to one or more  
42 community colleges owned, operated or chartered by a qualifying Indian  
43 tribe and shall be used in a manner consistent with section 15-1472,  
44 subsection B. For the purposes of this paragraph, "qualifying Indian

1 tribe" has the same meaning as defined in section 42-5031.01,  
2 subsection D.

3 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
4 this subsection, one-twelfth of the following amounts shall be transferred  
5 each month to the department of education for the increased cost of basic  
6 state aid under section 15-971 due to added school days and associated  
7 teacher salary increases enacted in 2000:

8 (a) In fiscal year 2001-2002, \$15,305,900.

9 (b) In fiscal year 2002-2003, \$31,530,100.

10 (c) In fiscal year 2003-2004, \$48,727,700.

11 (d) In fiscal year 2004-2005, \$66,957,200.

12 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
13 \$86,280,500.

14 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
15 this subsection, seven million eight hundred thousand dollars is  
16 appropriated each fiscal year, to be paid in monthly installments, to the  
17 department of education to be used for school safety as provided in  
18 section 15-154 and two hundred thousand dollars is appropriated each  
19 fiscal year, to be paid in monthly installments to the department of  
20 education to be used for the character education matching grant program as  
21 provided in section 15-154.01.

22 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
23 this subsection, no more than seven million dollars may be appropriated by  
24 the legislature each fiscal year to the department of education to be used  
25 for accountability purposes as described in section 15-241 and title 15,  
26 chapter 9, article 8.

27 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
28 this subsection, one million five hundred thousand dollars is appropriated  
29 each fiscal year, to be paid in monthly installments, to the failing  
30 schools tutoring fund established by section 15-241.

31 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of  
32 this subsection, twenty-five million dollars shall be transferred each  
33 fiscal year to the state general fund to reimburse the general fund for  
34 the cost of the income tax credit allowed by section 43-1072.01.

35 10. After the payment of monies pursuant to paragraphs 1 through 9  
36 of this subsection, the remaining monies collected during the preceding  
37 month shall be transferred to the classroom site fund established by  
38 section 15-977. The monies shall be allocated as follows in the manner  
39 prescribed by section 15-977:

40 (a) Forty per cent shall be allocated for teacher compensation  
41 based on performance.

42 (b) Twenty per cent shall be allocated for increases in teacher  
43 base compensation and employee related expenses.

44 (c) Forty per cent shall be allocated for maintenance and operation  
45 purposes.

1 F. EACH MONTH THE DEPARTMENT SHALL CREDIT THE NET REVENUES  
2 COLLECTED PURSUANT TO SECTION 42-5077 AND PAID PURSUANT TO SECTION  
3 42-5010, SUBSECTION A, PARAGRAPH 5 AS FOLLOWS:

4 1. OF THE MONIES COLLECTED PURSUANT TO SECTION 42-5077 AND PAID  
5 PURSUANT TO SECTION 42-5010, SUBSECTION A, PARAGRAPH 5:

6 (a) DEPOSIT 1.6 PERCENT IN THE STATE LAKE IMPROVEMENT FUND  
7 ESTABLISHED BY SECTION 5-382, BUT RETAINING .016 PERCENT OF THAT AMOUNT  
8 FOR DEPOSIT IN, AND FOR THE PURPOSES OF, THE DEPARTMENT OF REVENUE  
9 ADMINISTRATIVE FUND ESTABLISHED BY SECTION 42-1116.01.

10 (b) DEPOSIT .55 PERCENT IN THE OFF-HIGHWAY VEHICLE RECREATION FUND  
11 ESTABLISHED BY SECTION 28-1176.

12 2. DEPOSIT THE REMAINDER OF THE MONIES COLLECTED PURSUANT TO  
13 SECTION 42-5077 IN THE HIGHWAY USER REVENUE FUND PURSUANT TO TITLE 28,  
14 CHAPTER 18.

15 ~~F.~~ G. The department shall credit the remainder of the monies in  
16 the transaction privilege and severance tax clearing account to the state  
17 general fund, subject to any distribution required by section 42-5030.01.

18 ~~G.~~ H. Notwithstanding subsection D of this section, if a court of  
19 competent jurisdiction finally determines that tax monies distributed  
20 under this section were illegally collected under this article or articles  
21 5 and 8 of this chapter and orders the monies to be refunded to the  
22 taxpayer, the department shall compute the amount of such monies that was  
23 distributed to each city, town and county under this section. Each  
24 city's, town's and county's proportionate share of the costs shall be  
25 based on the amount of the original tax payment each municipality and  
26 county received. Each month the state treasurer shall reduce the amount  
27 otherwise distributable to the city, town and county under this section by  
28 one thirty-sixth of the total amount to be recovered from the city, town  
29 or county until the total amount has been recovered, but the monthly  
30 reduction for any city, town or county shall not exceed ten ~~per cent~~  
31 PERCENT of the full monthly distribution to that entity. The reduction  
32 shall begin for the first calendar month after the final disposition of  
33 the case and shall continue until the total amount, including interest and  
34 costs, has been recovered.

35 ~~H.~~ I. On receiving a certificate of default from the greater  
36 Arizona development authority pursuant to section 41-2257 or 41-2258 and  
37 to the extent not otherwise expressly prohibited by law, the state  
38 treasurer shall withhold from the next succeeding distribution of monies  
39 pursuant to this section due to the defaulting political subdivision the  
40 amount specified in the certificate of default and immediately deposit the  
41 amount withheld in the greater Arizona development authority revolving  
42 fund. The state treasurer shall continue to withhold and deposit the  
43 monies until the greater Arizona development authority certifies to the  
44 state treasurer that the default has been cured. In no event may the  
45 state treasurer withhold any amount that the defaulting political

1 subdivision certifies to the state treasurer and the authority as being  
2 necessary to make any required deposits then due for the payment of  
3 principal and interest on bonds of the political subdivision that were  
4 issued before the date of the loan repayment agreement or bonds and that  
5 have been secured by a pledge of distributions made pursuant to this  
6 section.

7 ~~I.~~ J. Except as provided by sections 42-5033 and 42-5033.01, the  
8 population of a county, city or town as determined by the most recent  
9 United States decennial census plus any revisions to the decennial census  
10 certified by the United States bureau of the census shall be used as the  
11 basis for apportioning monies pursuant to subsection D of this section.

12 ~~J.~~ K. Except as otherwise provided by this subsection, on notice  
13 from the department of revenue pursuant to section 42-6010, subsection B,  
14 the state treasurer shall withhold from the distribution of monies  
15 pursuant to this section to the affected city or town the amount of the  
16 penalty for business location municipal tax incentives provided by the  
17 city or town to a business entity that locates a retail business facility  
18 in the city or town. The state treasurer shall continue to withhold  
19 monies pursuant to this subsection until the entire amount of the penalty  
20 has been withheld. The state treasurer shall credit any monies withheld  
21 pursuant to this subsection to the state general fund as provided by  
22 subsection D, paragraph 4 of this section. The state treasurer shall not  
23 withhold any amount that the city or town certifies to the department of  
24 revenue and the state treasurer as being necessary to make any required  
25 deposits or payments for debt service on bonds or other long-term  
26 obligations of the city or town that were issued or incurred before the  
27 location incentives provided by the city or town.

28 ~~K.~~ L. On notice from the auditor general pursuant to section  
29 9-626, subsection D, the state treasurer shall withhold from the  
30 distribution of monies pursuant to this section to the affected city the  
31 amount computed pursuant to section 9-626, subsection D. The state  
32 treasurer shall continue to withhold monies pursuant to this subsection  
33 until the entire amount specified in the notice has been withheld. The  
34 state treasurer shall credit any monies withheld pursuant to this  
35 subsection to the state general fund as provided by subsection D,  
36 paragraph 4 of this section.

37 ~~L.~~ M. Except as otherwise provided by this subsection, on notice  
38 from the attorney general pursuant to section 41-194.01, subsection B,  
39 paragraph 1 that an ordinance, regulation, order or other official action  
40 adopted or taken by the governing body of a county, city or town violates  
41 state law or the Constitution of Arizona, the state treasurer shall  
42 withhold the distribution of monies pursuant to this section to the  
43 affected county, city or town and shall continue to withhold monies  
44 pursuant to this subsection until the attorney general certifies to the  
45 state treasurer that the violation has been resolved. The state treasurer

1 shall redistribute the monies withheld pursuant to this subsection among  
2 all other counties, cities and towns in proportion to their population as  
3 provided by subsection D of this section. The state treasurer shall not  
4 withhold any amount that the county, city or town certifies to the  
5 attorney general and the state treasurer as being necessary to make any  
6 required deposits or payments for debt service on bonds or other long-term  
7 obligations of the county, city or town that were issued or incurred  
8 before committing the violation.

9 ~~M.~~ N. For the purposes of this section, "community college  
10 district" means a community college district that is established pursuant  
11 to sections 15-1402 and 15-1403 and that is a political subdivision of  
12 this state and, unless otherwise specified, includes a community college  
13 tuition financing district established pursuant to section 15-1409.

14 Sec. 50. Section 42-5061, Arizona Revised Statutes, is amended to  
15 read:

16 42-5061. Retail classification; definitions

17 A. The retail classification is comprised of the business of  
18 selling tangible personal property at retail. The tax base for the retail  
19 classification is the gross proceeds of sales or gross income derived from  
20 the business. The tax imposed on the retail classification does not apply  
21 to the gross proceeds of sales or gross income from:

22 1. Professional or personal service occupations or businesses that  
23 involve sales or transfers of tangible personal property only as  
24 inconsequential elements.

25 2. Services rendered in addition to selling tangible personal  
26 property at retail.

27 3. Sales of warranty or service contracts. The storage, use or  
28 consumption of tangible personal property provided under the conditions of  
29 such contracts is subject to tax under section 42-5156.

30 4. Sales of tangible personal property by any nonprofit  
31 organization organized and operated exclusively for charitable purposes  
32 and recognized by the United States internal revenue service under section  
33 501(c)(3) of the internal revenue code.

34 5. Sales to persons engaged in business classified under the  
35 restaurant classification of articles used by human beings for food, drink  
36 or condiment, whether simple, mixed or compounded.

37 6. Business activity that is properly included in any other  
38 business classification that is taxable under this article.

39 7. The sale of stocks and bonds.

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

1           9. Prosthetic appliances as defined in section 23-501 and as  
2 prescribed or recommended by a health professional who is licensed  
3 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

4           10. Insulin, insulin syringes and glucose test strips.

5           11. Prescription eyeglasses or contact lenses.

6           12. Hearing aids as defined in section 36-1901.

7           13. Durable medical equipment that has a centers for medicare and  
8 medicaid services common procedure code, is designated reimbursable by  
9 medicare, is prescribed by a person who is licensed under title 32,  
10 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is  
11 primarily and customarily used to serve a medical purpose, is generally  
12 not useful to a person in the absence of illness or injury and is  
13 appropriate for use in the home.

14           14. Sales of motor vehicles to nonresidents of this state for use  
15 outside this state if the motor vehicle dealer ships or delivers the motor  
16 vehicle to a destination out of this state.

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

19           16. Items purchased with United States department of agriculture  
20 food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113;  
21 91 Stat. 958) or food instruments issued under section 17 of the child  
22 nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42  
23 United States Code section 1786).

24           17. Textbooks by any bookstore that are required by any state  
25 university or community college.

26           18. Food and drink to a person that is engaged in a business that  
27 is classified under the restaurant classification and that provides such  
28 food and drink without monetary charge to its employees for their own  
29 consumption on the premises during the employees' hours of employment.

30           19. Articles of food, drink or condiment and accessory tangible  
31 personal property to a school district or charter school if such articles  
32 and accessory tangible personal property are to be prepared and served to  
33 persons for consumption on the premises of a public school within the  
34 district or on the premises of the charter school during school hours.

35           20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
36 article 1.

37           21. The sale of cash equivalents and the sale of precious metal  
38 bullion and monetized bullion to the ultimate consumer, but the sale of  
39 coins or other forms of money for manufacture into jewelry or works of art  
40 is subject to the tax and the gross proceeds of sales or gross income  
41 derived from the redemption of any cash equivalent by the holder as a  
42 means of payment for goods or services that are taxable under this article  
43 is subject to the tax. For the purposes of this paragraph:

44           (a) "Cash equivalents" means items or intangibles, whether or not  
45 negotiable, that are sold to one or more persons, through which a value

denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.

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

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

22. Motor vehicle fuel ~~and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739~~ **SOLD BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077**, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

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

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

25. Tangible personal property sold to:

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

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

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

1 (d) A qualifying community health center as defined in section  
2 42-5001.

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

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

14 (g) A qualifying health sciences educational institution as defined  
15 in section 42-5001.

16 (h) Any person representing or working on behalf of another person  
17 described in subdivisions (a) through (g) of this paragraph if the  
18 tangible personal property is incorporated or fabricated into a project  
19 described in section 42-5075, subsection 0.

20 26. Magazines or other periodicals or other publications by this  
21 state to encourage tourist travel.

22 27. Tangible personal property sold to:

23 (a) A person that is subject to tax under this article by reason of  
24 being engaged in business classified under section 42-5075 or to a  
25 subcontractor working under the control of a person engaged in business  
26 classified under section 42-5075, if the property so sold is any of the  
27 following:

28 (i) Incorporated or fabricated by the person into any real  
29 property, structure, project, development or improvement as part of the  
30 business.

31 (ii) Incorporated or fabricated by the person into any project  
32 described in section 42-5075, subsection 0.

33 (iii) Used in environmental response or remediation activities  
34 under section 42-5075, subsection B, paragraph 6.

35 (b) A person that is not subject to tax under section 42-5075 and  
36 that has been provided a copy of a certificate under section 42-5009,  
37 subsection L, if the property so sold is incorporated or fabricated by the  
38 person into the real property, structure, project, development or  
39 improvement described in the certificate.

40 28. The sale of a motor vehicle to:

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



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

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

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

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

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

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

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle **AND SOLD BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077.**

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

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

1 or environmental protection. This paragraph shall apply for twenty 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  
4 environmental technology manufacturer, producer or processor who does not  
5 manufacture paper, the time period shall begin with the date the first  
6 manufacturing, processing or production equipment is placed in service.

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

20 39. Through December 31, 1994, personal property liquidation  
21 transactions, conducted by a personal property liquidator. From and after  
22 December 31, 1994, personal property liquidation transactions shall be  
23 taxable under this section provided that nothing in this subsection shall  
24 be construed to authorize the taxation of casual activities or  
25 transactions under this chapter. For the purposes of this paragraph:

26 (a) "Personal property liquidation transaction" means a sale of  
27 personal property made by a personal property liquidator acting solely on  
28 behalf of the owner of the personal property sold at the dwelling of the  
29 owner or on the death of any owner, on behalf of the surviving spouse, if  
30 any, any devisee or heir or the personal representative of the estate of  
31 the deceased, if one has been appointed.

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

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

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

1           42. Sales of:

2           (a) Livestock and poultry to persons engaging in the businesses of  
3 farming, ranching or producing livestock or poultry.

4           (b) Livestock and poultry feed, salts, vitamins and other additives  
5 for livestock or poultry consumption that are sold to persons for use or  
6 consumption by their own livestock or poultry, for use or consumption in  
7 the businesses of farming, ranching and producing or feeding livestock,  
8 poultry, or livestock or poultry products or for use or consumption in  
9 noncommercial boarding of livestock. For the purposes of this paragraph,  
10 "poultry" includes ratites.

11           43. Sales of implants used as growth promotants and injectable  
12 medicines, not already exempt under paragraph 8 of this subsection, for  
13 livestock or poultry owned by or in possession of persons who are engaged  
14 in producing livestock, poultry, or livestock or poultry products or who  
15 are engaged in feeding livestock or poultry commercially. For the  
16 purposes of this paragraph, "poultry" includes ratites.

17           44. Sales of motor vehicles at auction to nonresidents of this  
18 state for use outside this state if the vehicles are shipped or delivered  
19 out of this state, regardless of where title to the motor vehicles passes  
20 or its free on board point.

21           45. Tangible personal property sold to a person engaged in business  
22 and subject to tax under the transient lodging classification if the  
23 tangible personal property is a personal hygiene item or articles used by  
24 human beings for food, drink or condiment, except alcoholic beverages,  
25 that are furnished without additional charge to and intended to be  
26 consumed by the transient during the transient's occupancy.

27           46. Sales of alternative fuel, as defined in section 1-215, to a  
28 used oil fuel burner who has received a permit to burn used oil or used  
29 oil fuel under section 49-426 or 49-480.

30           47. Sales of materials that are purchased by or for publicly funded  
31 libraries including school district libraries, charter school libraries,  
32 community college libraries, state university libraries or federal, state,  
33 county or municipal libraries for use by the public as follows:

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

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

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

44           49. Sales of alternative fuel vehicles if the vehicle was  
45 manufactured as a diesel fuel vehicle and converted to operate on

1 alternative fuel and equipment that is installed in a conventional diesel  
2 fuel motor vehicle to convert the vehicle to operate on an alternative  
3 fuel, as defined in section 1-215.

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

7 51. Sales of tangible personal property to be incorporated or  
8 installed as part of environmental response or remediation activities  
9 under section 42-5075, subsection B, paragraph 6.

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

15 53. Application services that are designed to assess or test  
16 student learning or to promote curriculum design or enhancement purchased  
17 by or for any school district, charter school, community college or state  
18 university. For the purposes of this paragraph:

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

21 (b) "Curriculum design or enhancement" means planning, implementing  
22 or reporting on courses of study, lessons, assignments or other learning  
23 activities.

24 ~~54. Sales of motor vehicle fuel and use fuel to a qualified~~  
25 ~~business under section 41-1516 for off-road use in harvesting, processing~~  
26 ~~or transporting qualifying forest products removed from qualifying~~  
27 ~~projects as defined in section 41-1516.~~

28 ~~55.~~ 54. Sales of repair parts installed in equipment used directly  
29 by a qualified business under section 41-1516 in harvesting, processing or  
30 transporting qualifying forest products removed from qualifying projects  
31 as defined in section 41-1516.

32 ~~56.~~ 55. Sales or other transfers of renewable energy credits or  
33 any other unit created to track energy derived from renewable energy  
34 resources. For the purposes of this paragraph, "renewable energy credit"  
35 means a unit created administratively by the corporation commission or  
36 governing body of a public power utility to track kilowatt hours of  
37 electricity derived from a renewable energy resource or the kilowatt hour  
38 equivalent of conventional energy resources displaced by distributed  
39 renewable energy resources.

40 ~~57.~~ 56. Computer data center equipment sold to the owner, operator  
41 or qualified colocation tenant of a computer data center that is certified  
42 by the Arizona commerce authority under section 41-1519 or an authorized  
43 agent of the owner, operator or qualified colocation tenant during the  
44 qualification period for use in the qualified computer data center. For  
45 the purposes of this paragraph, "computer data center", "computer data

center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

~~58.~~ 57. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

~~59.~~ 58. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

~~60.~~ 59. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person

representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44           (a) Includes the integrated systems, fixtures, piping, movable  
45 partitions, lighting and all property that is necessary or adapted to



1 reduce contamination or to control airflow, temperature, humidity,  
2 chemical purity or other environmental conditions or manufacturing  
3 tolerances, as well as the production machinery and equipment operating in  
4 conjunction with the clean room environment.

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

7 17. Machinery and equipment used directly in the feeding of  
8 poultry, the environmental control of housing for poultry, the movement of  
9 eggs within a production and packaging facility or the sorting or cooling  
10 of eggs. This exemption does not apply to vehicles used for transporting  
11 eggs.

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

22 19. Machinery and equipment that are sold to a person engaged in  
23 the commercial production of livestock, livestock products or  
24 agricultural, horticultural, viticultural or floricultural crops or  
25 products in this state, including a person representing or working on  
26 behalf of such a person in a manner described in section 42-5075,  
27 subsection 0, if the machinery and equipment are used directly and  
28 primarily to prevent, monitor, control or reduce air, water or land  
29 pollution.

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

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

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

42 (c) Any machinery or equipment purchased after the television  
43 station has ceased analog broadcasting, or purchased after November 1,  
44 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

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

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

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

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

F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property, **THE GROSS PROCEEDS OF SALES, IF ANY, OF MOTOR VEHICLE FUEL** and the gross income from sales of services, and if not so kept the tax shall be imposed on the total **AMOUNT** of the person's gross proceeds of sales of

1 tangible personal property, GROSS PROCEEDS OF SALES, IF ANY, OF MOTOR  
2 VEHICLE FUEL and gross income from services.

3 G. If a person is engaged in the business of selling tangible  
4 personal property at both wholesale and retail, the tax under this section  
5 applies only to the gross proceeds of the sales made other than at  
6 wholesale if the person's books are kept so as to show separately the  
7 gross proceeds of sales of each class, and if the books are not so kept,  
8 the tax under this section applies to the gross proceeds of every sale so  
9 made.

10 H. A person who engages in manufacturing, baling, crating, boxing,  
11 barreling, canning, bottling, sacking, preserving, processing or otherwise  
12 preparing for sale or commercial use any livestock, agricultural or  
13 horticultural product or any other product, article, substance or  
14 commodity and who sells the product of such business at retail in this  
15 state is deemed, as to such sales, to be engaged in business classified  
16 under the retail classification. This subsection does not apply to:

17 1. Agricultural producers who are owners, proprietors or tenants of  
18 agricultural lands, orchards, farms or gardens where agricultural products  
19 are grown, raised or prepared for market and who are marketing their own  
20 agricultural products.

21 2. Businesses classified under the:

22 (a) Transporting classification.

23 (b) Utilities classification.

24 (c) Telecommunications classification.

25 (d) Pipeline classification.

26 (e) Private car line classification.

27 (f) Publication classification.

28 (g) Job printing classification.

29 (h) Prime contracting classification.

30 (i) Restaurant classification.

31 I. The gross proceeds of sales or gross income derived from the  
32 following shall be deducted from the tax base for the retail  
33 classification:

34 1. Sales made directly to the United States government or its  
35 departments or agencies by a manufacturer, modifier, assembler or  
36 repairer.

37 2. Sales made directly to a manufacturer, modifier, assembler or  
38 repairer if such sales are of any ingredient or component part of products  
39 sold directly to the United States government or its departments or  
40 agencies by the manufacturer, modifier, assembler or repairer.

41 3. Overhead materials or other tangible personal property that is  
42 used in performing a contract between the United States government and a  
43 manufacturer, modifier, assembler or repairer, including property used in  
44 performing a subcontract with a government contractor who is a

1 manufacturer, modifier, assembler or repairer, to which title passes to  
2 the government under the terms of the contract or subcontract.

3 4. Sales of overhead materials or other tangible personal property  
4 to a manufacturer, modifier, assembler or repairer if the gross proceeds  
5 of sales or gross income derived from the property by the manufacturer,  
6 modifier, assembler or repairer will be exempt under paragraph 3 of this  
7 subsection.

8 J. There shall be deducted from the tax base fifty percent of the  
9 gross proceeds or gross income from any sale of tangible personal property  
10 made directly to the United States government or its departments or  
11 agencies that is not deducted under subsection I of this section.

12 K. The department shall require every person claiming a deduction  
13 provided by subsection I or J of this section to file on forms prescribed  
14 by the department at such times as the department directs a sworn  
15 statement disclosing the name of the purchaser and the exact amount of  
16 sales on which the exclusion or deduction is claimed.

17 L. In computing the tax base, gross proceeds of sales or gross  
18 income does not include:

19 1. A manufacturer's cash rebate on the sales price of a motor  
20 vehicle if the buyer assigns the buyer's right in the rebate to the  
21 retailer.

22 2. The waste tire disposal fee imposed pursuant to section 44-1302.

23 M. There shall be deducted from the tax base the amount received  
24 from sales of solar energy devices. The retailer shall register with the  
25 department as a solar energy retailer. By registering, the retailer  
26 acknowledges that it will make its books and records relating to sales of  
27 solar energy devices available to the department for examination.

28 N. In computing the tax base in the case of the sale or transfer of  
29 wireless telecommunications equipment as an inducement to a customer to  
30 enter into or continue a contract for telecommunications services that are  
31 taxable under section 42-5064, gross proceeds of sales or gross income  
32 does not include any sales commissions or other compensation received by  
33 the retailer as a result of the customer entering into or continuing a  
34 contract for the telecommunications services.

35 O. For the purposes of this section, a sale of wireless  
36 telecommunications equipment to a person who holds the equipment for sale  
37 or transfer to a customer as an inducement to enter into or continue a  
38 contract for telecommunications services that are taxable under section  
39 42-5064 is considered to be a sale for resale in the regular course of  
40 business.

41 P. Retail sales of prepaid calling cards or prepaid authorization  
42 numbers for telecommunications services, including sales of  
43 reauthorization of a prepaid card or authorization number, are subject to  
44 tax under this section.

1           Q. For the purposes of this section, the diversion of gas from a  
2 pipeline by a person engaged in the business of:

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

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

9           R. For the purposes of this section, the transfer of title or  
10 possession of coal from an owner or operator of a power plant to a person  
11 in the business of refining coal is not a sale of coal if both of the  
12 following apply:

13           1. The transfer of title or possession of the coal is for the  
14 purpose of refining the coal.

15           2. The title or possession of the coal is transferred back to the  
16 owner or operator of the power plant after completion of the coal refining  
17 process. For the purposes of this paragraph, "coal refining process"  
18 means the application of a coal additive system that aids in the reduction  
19 of power plant emissions during the combustion of coal and the treatment  
20 of flue gas.

21           S. If a seller is entitled to a deduction pursuant to subsection B,  
22 paragraph 15, subdivision (b) of this section, the department may require  
23 the purchaser to establish that the requirements of subsection B,  
24 paragraph 15, subdivision (b) of this section have been satisfied. If the  
25 purchaser cannot establish that the requirements of subsection B,  
26 paragraph 15, subdivision (b) of this section have been satisfied, the  
27 purchaser is liable in an amount equal to any tax, penalty and interest  
28 that the seller would have been required to pay under article 1 of this  
29 chapter if the seller had not made a deduction pursuant to subsection B,  
30 paragraph 15, subdivision (b) of this section. Payment of the amount  
31 under this subsection exempts the purchaser from liability for any tax  
32 imposed under article 4 of this chapter and related to the tangible  
33 personal property purchased. The amount shall be treated as transaction  
34 privilege tax to the purchaser and as tax revenues collected from the  
35 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

14           V. For the purposes of this section:

15           1. "Agricultural aircraft" means an aircraft that is built for  
16 agricultural use for the aerial application of pesticides or fertilizer or  
17 for aerial seeding.

18           2. "Aircraft" includes:

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

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

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

28           4. "Selling at retail" means a sale for any purpose other than for  
29 resale in the regular course of business in the form of tangible personal  
30 property, but transfer of possession, lease and rental as used in the  
31 definition of sale mean only such transactions as are found on  
32 investigation to be in lieu of sales as defined without the words lease or  
33 rental.

34           W. For the purposes of subsection I of this section:

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

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

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

44           4. "Overhead materials" means tangible personal property, the gross  
45 proceeds of sales or gross income derived from that would otherwise be

1 included in the retail classification, and that are used or consumed in  
 2 the performance of a contract, the cost of which is charged to an overhead  
 3 expense account and allocated to various contracts based on generally  
 4 accepted accounting principles and consistent with government contract  
 5 accounting standards.

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

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

18 Sec. 51. Section 42-5063, Arizona Revised Statutes, is amended to  
 19 read:

20 42-5063. Utilities classification; definitions

21 A. The utilities classification is comprised of the business of:

22 1. Producing and furnishing or furnishing to consumers natural or  
 23 artificial gas and water.

24 2. Providing to retail electric customers ancillary services,  
 25 electric distribution services, electric generation services, electric  
 26 transmission services and other services related to providing electricity.

27 B. The utilities classification does not include:

28 1. Sales of ancillary services, electric distribution services,  
 29 electric generation services, electric transmission services and other  
 30 services related to providing electricity, gas or water to a person who  
 31 resells the services.

32 2. Sales of natural gas or liquefied petroleum gas used to propel a  
 33 motor vehicle **BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL MOTOR**  
 34 **VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077.**

35 3. Sales of alternative fuel, as defined in section 1-215, to a  
 36 used oil fuel burner who has received a permit to burn used oil or used  
 37 oil fuel under section 49-426 or 49-480.

38 4. Sales of ancillary services, electric distribution services,  
 39 electric generation services, electric transmission services and other  
 40 services that are related to providing electricity to a retail electric  
 41 customer who is located outside this state for use outside this state if  
 42 the electricity is delivered to a point of sale outside this state.

43 5. Sales or other transfers of renewable energy credits or any  
 44 other unit created to track energy derived from renewable energy  
 45 resources. For the purposes of this paragraph, "renewable energy credit"

means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

6. The leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in business under this section.

(b) To a person that is engaged in business under this section or section 42-5064 or that is a cable operator.

C. The tax base for the utilities classification is the gross proceeds of sales or gross income derived from the business, but the following shall be deducted from the tax base:

1. Revenues received by a municipally owned utility in the form of fees charged to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Revenues received by any person or persons owning a utility system in the form of reimbursement or contribution compensation for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

3. Gross proceeds of sales or gross income derived from sales to:

(a) Qualifying hospitals as defined in section 42-5001.

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

4. The portion of gross proceeds of sales or gross income that is derived from sales to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 of a utility product and that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of a qualified environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

5. The portion of gross proceeds of sales or gross income attributable to transfers of electricity by any retail electric customer owning a solar photovoltaic energy generating system to an electric



1 distribution system, if the electricity transferred is generated by the  
2 customer's system.

3 6. Gross proceeds of sales or gross income derived from sales of  
4 electricity, natural gas or liquefied petroleum gas to a qualified  
5 manufacturing or smelting business. A utility that claims this deduction  
6 shall report each month, on a form prescribed by the department, the name  
7 and address of each qualified manufacturing or smelting business for which  
8 this deduction is taken. This paragraph applies to gas transportation  
9 services. For the purposes of this paragraph:

10 (a) "Gas transportation services" means the services of  
11 transporting natural gas to a natural gas customer or to a natural gas  
12 distribution facility if the natural gas was purchased from a supplier  
13 other than the utility.

14 (b) "Manufacturing" means the performance as a business of an  
15 integrated series of operations that places tangible personal property in  
16 a form, composition or character different from that in which it was  
17 acquired and transforms it into a different product with a distinctive  
18 name, character or use. Manufacturing does not include job printing,  
19 publishing, packaging, mining, generating electricity or operating a  
20 restaurant.

21 (c) "Qualified manufacturing or smelting business" means one of the  
22 following:

23 (i) A business that manufactures or smelts tangible products in  
24 this state, of which at least fifty-one percent of the manufactured or  
25 smelted products will be exported out of state for incorporation into  
26 another product or sold out of state for a final sale.

27 (ii) A business that derives at least fifty-one percent of its  
28 gross income from the sale of manufactured or smelted products  
29 manufactured or smelted by the business.

30 (iii) A business that uses at least fifty-one percent of its square  
31 footage in this state for manufacturing or smelting and business  
32 activities directly related to manufacturing or smelting.

33 (iv) A business that employs at least fifty-one percent of its  
34 workforce in this state in manufacturing or smelting and business  
35 activities directly related to manufacturing or smelting.

36 (v) A business that uses at least fifty-one percent of the value of  
37 its capitalized assets in this state, as reflected on the business's books  
38 and records, for manufacturing or smelting and business activities  
39 directly related to manufacturing or smelting.

40 (d) "Smelting" means to melt or fuse a metalliferous mineral, often  
41 with an accompanying chemical change, usually to separate the metal.

42 7. Gross proceeds of sales or gross income derived from sales of  
43 electricity or natural gas to a business that operates an international  
44 operations center in this state and that is certified by the Arizona  
45 commerce authority pursuant to section 41-1520.

1 D. For the purposes of this section:

2 1. "Ancillary services" means those services so designated in  
3 federal energy regulatory commission order 888 adopted in 1996 that  
4 include the services necessary to support the transmission of electricity  
5 from resources to loads while maintaining reliable operation of the  
6 transmission system according to good utility practice.

7 2. "Cable operator" has the same meaning prescribed in section  
8 9-505.

9 3. "Electric distribution service" means distributing electricity  
10 to retail electric customers through the use of electric distribution  
11 facilities.

12 4. "Electric generation service" means providing electricity for  
13 sale to retail electric customers but excluding electric distribution or  
14 transmission services.

15 5. "Electric transmission service" means transmitting electricity  
16 to retail electric customers or to electric distribution facilities so  
17 classified by the federal energy regulatory commission or, to the extent  
18 permitted by law, so classified by the Arizona corporation commission.

19 6. "Other services" includes metering, meter reading services,  
20 billing and collecting services.

21 7. "Retail electric customer" means a person who purchases  
22 electricity for that person's own use, including use in that person's  
23 trade or business and not for resale, redistribution or retransmission.

24 8. "Utility pole" means any wooden, metal or other pole used for  
25 utility purposes and the pole's appurtenances that are attached or  
26 authorized for attachment by the person controlling the pole.

27 Sec. 52. Section 42-5071, Arizona Revised Statutes, is amended to  
28 read:

29 42-5071. Personal property rental classification: definitions

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

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

36 2. Activities engaged in by the Arizona exposition and state fair  
37 board or county fair commissions in connection with events sponsored by  
38 such entities.

39 3. Leasing or renting tangible personal property by a parent  
40 corporation to a subsidiary corporation or by a subsidiary corporation to  
41 another subsidiary of the same parent corporation if taxes were paid under  
42 this chapter on the gross proceeds or gross income accruing from the  
43 initial sale of the tangible personal property. For the purposes of this  
44 paragraph, "subsidiary" means a corporation of which at least eighty  
45 percent of the voting shares are owned by the parent corporation.

1           4. Operating coin-operated washing, drying and dry cleaning  
2 machines or coin-operated car washing machines at establishments for the  
3 use of such machines.

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

10          6. Leasing or renting aircraft, flight simulators or similar  
11 training equipment to students or staff by nonprofit, accredited  
12 educational institutions that offer associate or baccalaureate degrees in  
13 aviation or aerospace related fields.

14          7. Leasing or renting photographs, transparencies or other creative  
15 works used by this state on internet websites, in magazines or in other  
16 publications that encourage tourism.

17          8. Leasing or renting certified ignition interlock devices  
18 installed pursuant to the requirements prescribed by section 28-1461. For  
19 the purposes of this paragraph, "certified ignition interlock device" has  
20 the same meaning prescribed in section 28-1301.

21          9. The leasing or renting of space to make attachments to utility  
22 poles, as follows:

23           (a) By a person that is engaged in business under section 42-5063  
24 or 42-5064 or that is a cable operator.

25           (b) To a person that is engaged in business under section 42-5063  
26 or 42-5064 or that is a cable operator.

27          10. Leasing or renting billboards that are designed, intended or  
28 used to advertise or inform and that are visible from any street, road or  
29 other highway.

30          B. The tax base for the personal property rental classification is  
31 the gross proceeds of sales or gross income derived from the business, but  
32 the gross proceeds of sales or gross income derived from the following  
33 shall be deducted from the tax base:

34           1. Reimbursements by the lessee to the lessor of a motor vehicle  
35 for payments by the lessor of the applicable fees and taxes imposed by  
36 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter  
37 15, article 2 and article IX, section 11, Constitution of Arizona, to the  
38 extent such amounts are separately identified as such fees and taxes and  
39 are billed to the lessee.

40           2. Leases or rentals of tangible personal property that, if it had  
41 been purchased instead of leased or rented by the lessee, would have been  
42 exempt under:

43           (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29,  
44 49 or 53.

(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.

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

(d) Section 42-5061, subsection M.

3. Motor vehicle fuel ~~and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739~~ SOLD TO THE TAXPAYER BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.

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

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

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

D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 5-839, 28-5810 or 48-4234.

E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.

F. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed by IN section 9-505.

2. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 53. Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and the business of manufactured building dealer. Sales for resale to another manufactured building dealer are not

1 subject to tax. Sales for resale do not include sales to a lessor of  
2 manufactured buildings. The sale of a used manufactured building is not  
3 taxable under this chapter.

4 B. The tax base for the prime contracting classification is  
5 sixty-five percent of the gross proceeds of sales or gross income derived  
6 from the business. The following amounts shall be deducted from the gross  
7 proceeds of sales or gross income before computing the tax base:

8 1. The sales price of land, which shall not exceed the fair market  
9 value.

10 2. Sales and installation of groundwater measuring devices required  
11 under section 45-604 and groundwater monitoring wells required by law,  
12 including monitoring wells installed for acquiring information for a  
13 permit required by law.

14 3. The sales price of furniture, furnishings, fixtures, appliances  
15 and attachments that are not incorporated as component parts of or  
16 attached to a manufactured building or the setup site. The sale of such  
17 items may be subject to the taxes imposed by article 1 of this chapter  
18 separately and distinctly from the sale of the manufactured building.

19 4. The gross proceeds of sales or gross income received from a  
20 contract entered into for the modification of any building, highway, road,  
21 railroad, excavation, manufactured building or other structure, project,  
22 development or improvement located in a military reuse zone for providing  
23 aviation or aerospace services or for a manufacturer, assembler or  
24 fabricator of aviation or aerospace products within an active military  
25 reuse zone after the zone is initially established or renewed under  
26 section 41-1531. To be eligible to qualify for this deduction, before  
27 beginning work under the contract, the prime contractor must have applied  
28 for a letter of qualification from the department of revenue.

29 5. The gross proceeds of sales or gross income derived from a  
30 contract to construct a qualified environmental technology manufacturing,  
31 producing or processing facility, as described in section 41-1514.02, and  
32 from subsequent construction and installation contracts that begin within  
33 ten years after the start of initial construction. To qualify for this  
34 deduction, before beginning work under the contract, the prime contractor  
35 must obtain a letter of qualification from the department of revenue.  
36 This paragraph shall apply for ten full consecutive calendar or fiscal  
37 years after the start of initial construction.

38 6. The gross proceeds of sales or gross income from a contract to  
39 provide for one or more of the following actions, or a contract for site  
40 preparation, constructing, furnishing or installing machinery, equipment  
41 or other tangible personal property, including structures necessary to  
42 protect exempt incorporated materials or installed machinery or equipment,  
43 and tangible personal property incorporated into the project, to perform  
44 one or more of the following actions in response to a release or suspected  
45 release of a hazardous substance, pollutant or contaminant from a facility

1 to the environment, unless the release was authorized by a permit issued  
2 by a governmental authority:

3 (a) Actions to monitor, assess and evaluate such a release or a  
4 suspected release.

5 (b) Excavation, removal and transportation of contaminated soil and  
6 its treatment or disposal.

7 (c) Treatment of contaminated soil by vapor extraction, chemical or  
8 physical stabilization, soil washing or biological treatment to reduce the  
9 concentration, toxicity or mobility of a contaminant.

10 (d) Pumping and treatment or in situ treatment of contaminated  
11 groundwater or surface water to reduce the concentration or toxicity of a  
12 contaminant.

13 (e) The installation of structures, such as cutoff walls or caps,  
14 to contain contaminants present in groundwater or soil and prevent them  
15 from reaching a location where they could threaten human health or welfare  
16 or the environment.

17 This paragraph does not include asbestos removal or the construction or  
18 use of ancillary structures such as maintenance sheds, offices or storage  
19 facilities for unattached equipment, pollution control equipment,  
20 facilities or other control items required or to be used by a person to  
21 prevent or control contamination before it reaches the environment.

22 7. The gross proceeds of sales or gross income that is derived from  
23 a contract for the installation, assembly, repair or maintenance of  
24 machinery, equipment or other tangible personal property that is either  
25 deducted from the tax base of the retail classification under section  
26 42-5061, subsection B or that is exempt from use tax under section  
27 42-5159, subsection B and that has independent functional utility,  
28 pursuant to the following provisions:

29 (a) The deduction provided in this paragraph includes the gross  
30 proceeds of sales or gross income derived from all of the following:

31 (i) Any activity performed on machinery, equipment or other  
32 tangible personal property with independent functional utility.

33 (ii) Any activity performed on any tangible personal property  
34 relating to machinery, equipment or other tangible personal property with  
35 independent functional utility in furtherance of any of the purposes  
36 provided for under subdivision (d) of this paragraph.

37 (iii) Any activity that is related to the activities described in  
38 items (i) and (ii) of this subdivision, including inspecting the  
39 installation of or testing the machinery, equipment or other tangible  
40 personal property.

41 (b) The deduction provided in this paragraph does not include gross  
42 proceeds of sales or gross income from the portion of any contracting  
43 activity that consists of the development of, or modification to, real  
44 property in order to facilitate the installation, assembly, repair,  
45 maintenance or removal of machinery, equipment or other tangible personal

property that is either deducted from the tax base of the retail classification under section 42-5061, subsection B or exempt from use tax under section 42-5159, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:

(a) Section 42-5061, subsection A, paragraph 25, 29, ~~57~~ 56 or ~~59~~ 58.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

(d) Section 42-5159, subsection B.

9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

10. The gross proceeds of sales or gross income that is derived from a contract entered into with a person who is engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state for the modification of any building, highway, road, excavation, manufactured building or other structure, project, development or improvement used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that

1 are deducted from the tax base of the retail classification pursuant to  
2 section 42-5061, subsection B, paragraph 16.

3 12. For taxable periods beginning from and after June 30, 2001, the  
4 gross proceeds of sales or gross income derived from a contract entered  
5 into for the construction of a residential apartment housing facility that  
6 qualifies for a federal housing subsidy for low income persons over  
7 sixty-two years of age and that is owned by a nonprofit charitable  
8 organization that has qualified under section 501(c)(3) of the internal  
9 revenue code.

10 13. For taxable periods beginning from and after December 31, 1996  
11 and ending before January 1, 2017, the gross proceeds of sales or gross  
12 income derived from a contract to provide and install a solar energy  
13 device. The contractor shall register with the department as a solar  
14 energy contractor. By registering, the contractor acknowledges that it  
15 will make its books and records relating to sales of solar energy devices  
16 available to the department for examination.

17 14. The gross proceeds of sales or gross income derived from a  
18 contract entered into for the construction of a launch site, as defined in  
19 14 Code of Federal Regulations section 401.5.

20 15. The gross proceeds of sales or gross income derived from a  
21 contract entered into for the construction of a domestic violence shelter  
22 that is owned and operated by a nonprofit charitable organization that has  
23 qualified under section 501(c)(3) of the internal revenue code.

24 16. The gross proceeds of sales or gross income derived from  
25 contracts to perform postconstruction treatment of real property for  
26 termite and general pest control, including wood-destroying organisms.

27 17. The gross proceeds of sales or gross income received from  
28 contracts entered into before July 1, 2006 for constructing a state  
29 university research infrastructure project if the project has been  
30 reviewed by the joint committee on capital review before the university  
31 enters into the construction contract for the project. For the purposes  
32 of this paragraph, "research infrastructure" has the same meaning  
33 prescribed in section 15-1670.

34 18. The gross proceeds of sales or gross income received from a  
35 contract for the construction of any building, or other structure,  
36 project, development or improvement owned by a qualified business under  
37 section 41-1516 for harvesting or processing qualifying forest products  
38 removed from qualifying projects as defined in section 41-1516 if actual  
39 construction begins before January 1, 2024. To qualify for this  
40 deduction, the prime contractor must obtain a letter of qualification from  
41 the Arizona commerce authority before beginning work under the contract.

42 19. Any amount of the gross proceeds of sales or gross income  
43 attributable to development fees that are incurred in relation to a  
44 contract for construction, development or improvement of real property and



that are paid by a prime contractor or subcontractor. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor, and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

1 (b) Obtaining a certificate executed by the purchaser indicating  
2 the name and address of the purchaser, the precise nature of the business  
3 of the purchaser, the purpose for which the purchase was made, the  
4 necessary facts to establish the deductibility of the property under  
5 section 42-5061, subsection B, and a certification that the person  
6 executing the certificate is authorized to do so on behalf of the  
7 purchaser. The certificate may be disregarded if the prime contractor has  
8 reason to believe that the information contained in the certificate is not  
9 accurate or complete.

10 2. A person who does not comply with paragraph 1 of this subsection  
11 may establish entitlement to the deduction by presenting facts necessary  
12 to support the entitlement, but the burden of proof is on that person.

13 3. The department may prescribe a form for the certificate  
14 described in paragraph 1, subdivision (b) of this subsection. The  
15 department may also adopt rules that describe the transactions with  
16 respect to which a person is not entitled to rely solely on the  
17 information contained in the certificate provided in paragraph 1,  
18 subdivision (b) of this subsection but must instead obtain such additional  
19 information as required in order to be entitled to the deduction.

20 4. If a prime contractor is entitled to a deduction by complying  
21 with paragraph 1 of this subsection, the department may require the  
22 purchaser who caused the execution of the certificate to establish the  
23 accuracy and completeness of the information required to be contained in  
24 the certificate that would entitle the prime contractor to the deduction.  
25 If the purchaser cannot establish the accuracy and completeness of the  
26 information, the purchaser is liable in an amount equal to any tax,  
27 penalty and interest that the prime contractor would have been required to  
28 pay under article 1 of this chapter if the prime contractor had not  
29 complied with paragraph 1 of this subsection. Payment of the amount under  
30 this paragraph exempts the purchaser from liability for any tax imposed  
31 under article 4 of this chapter. The amount shall be treated as a  
32 transaction privilege tax to the purchaser and as tax revenues collected  
33 from the prime contractor in order to designate the distribution base for  
34 purposes of section 42-5029.

35 D. Subcontractors or others who perform modification activities are  
36 not subject to tax if they can demonstrate that the job was within the  
37 control of a prime contractor or contractors or a dealership of  
38 manufactured buildings and that the prime contractor or dealership is  
39 liable for the tax on the gross income, gross proceeds of sales or gross  
40 receipts attributable to the job and from which the subcontractors or  
41 others were paid.

42 E. Amounts received by a contractor for a project are excluded from  
43 the contractor's gross proceeds of sales or gross income derived from the  
44 business if the person who hired the contractor executes and provides a  
45 certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article  
2 1 of this chapter. The department shall prescribe the form of the  
3 certificate. If the contractor has reason to believe that the information  
4 contained on the certificate is erroneous or incomplete, the department  
5 may disregard the certificate. If the person who provides the certificate  
6 is not liable for the tax as a prime contractor, that person is  
7 nevertheless deemed to be the prime contractor in lieu of the contractor  
8 and is subject to the tax under this section on the gross receipts or  
9 gross proceeds received by the contractor.

10 F. Every person engaging or continuing in this state in the  
11 business of prime contracting or dealership of manufactured buildings  
12 shall present to the purchaser of such prime contracting or manufactured  
13 building a written receipt of the gross income or gross proceeds of sales  
14 from such activity and shall separately state the taxes to be paid  
15 pursuant to this section.

16 G. For the purposes of section 42-5032.01, the department shall  
17 separately account for revenues collected under the prime contracting  
18 classification from any prime contractor engaged in the preparation or  
19 construction of a multipurpose facility, and related infrastructure, that  
20 is owned, operated or leased by the tourism and sports authority pursuant  
21 to title 5, chapter 8.

22 H. For the purposes of section 42-5032.02, from and after  
23 September 30, 2013, the department shall separately account for revenues  
24 reported and collected under the prime contracting classification from any  
25 prime contractor engaged in the construction of any buildings and  
26 associated improvements that are for the benefit of a manufacturing  
27 facility. For the purposes of this subsection, "associated improvements"  
28 and "manufacturing facility" have the same meanings prescribed in section  
29 42-5032.02.

30 I. The gross proceeds of sales or gross income derived from a  
31 contract for lawn maintenance services ~~are~~ IS not subject to tax under  
32 this section if the contract does not include landscaping activities.  
33 Lawn maintenance service is a service pursuant to section 42-5061,  
34 subsection A, paragraph 1, and includes lawn mowing and edging, weeding,  
35 repairing sprinkler heads or drip irrigation heads, seasonal replacement  
36 of flowers, refreshing gravel, lawn dethatching, seeding winter lawns,  
37 leaf and debris collection and removal, tree or shrub pruning or clipping,  
38 garden and gravel raking and applying pesticides, as defined in section  
39 3-361, and fertilizer materials, as defined in section 3-262.

40 J. Except as provided in subsection 0 of this section, the gross  
41 proceeds of sales or gross income derived from landscaping activities ~~are~~  
42 IS subject to tax under this section. Landscaping includes installing  
43 lawns, grading or leveling ground, installing gravel or boulders, planting  
44 trees and other plants, felling trees, removing or mulching tree stumps,

1 removing other imbedded plants, building irrigation berms, installing  
2 railroad ties and installing underground sprinkler or watering systems.

3 K. The portion of gross proceeds of sales or gross income  
4 attributable to the actual direct costs of providing architectural or  
5 engineering services that are incorporated in a contract is not subject to  
6 tax under this section. For the purposes of this subsection, "direct  
7 costs" means the portion of the actual costs that are directly expended in  
8 providing architectural or engineering services.

9 L. Operating a landfill or a solid waste disposal facility is not  
10 subject to taxation under this section, including filling, compacting and  
11 creating vehicle access to and from cell sites within the landfill.  
12 Constructing roads to a landfill or solid waste disposal facility and  
13 constructing cells within a landfill or solid waste disposal facility may  
14 be deemed prime contracting under this section.

15 M. The following apply in determining the taxable situs of sales of  
16 manufactured buildings:

17 1. For sales in this state where the manufactured building dealer  
18 contracts to deliver the building to a setup site or to perform the setup  
19 in this state, the taxable situs is the setup site.

20 2. For sales in this state where the manufactured building dealer  
21 does not contract to deliver the building to a setup site or does not  
22 perform the setup, the taxable situs is the location of the dealership  
23 where the building is delivered to the buyer.

24 3. For sales in this state where the manufactured building dealer  
25 contracts to deliver the building to a setup site that is outside this  
26 state, the situs is outside this state and the transaction is excluded  
27 from tax.

28 N. The gross proceeds of sales or gross income attributable to a  
29 written contract for design phase services or professional services,  
30 executed before modification begins and with terms, conditions and pricing  
31 of all of these services separately stated in the contract from those for  
32 construction phase services, is not subject to tax under this section,  
33 regardless of whether the services are provided sequential to or  
34 concurrent with prime contracting activities that are subject to tax under  
35 this section. This subsection does not include the gross proceeds of  
36 sales or gross income attributable to construction phase services. For  
37 the purposes of this subsection:

38 1. "Construction phase services" means services for the execution  
39 and completion of any modification, including the following:

40 (a) Administration or supervision of any modification performed on  
41 the project, including team management and coordination, scheduling, cost  
42 controls, submittal process management, field management, safety program,  
43 close-out process and warranty period services.

44 (b) Administration or supervision of any modification performed  
45 pursuant to a punch list. For the purposes of this subdivision, "punch

1 list" means minor items of modification work performed after substantial  
2 completion and before final completion of the project.

3 (c) Administration or supervision of any modification performed  
4 pursuant to change orders. For the purposes of this subdivision, "change  
5 order" means a written instrument issued after execution of a contract for  
6 modification work, providing for all of the following:

7 (i) The scope of a change in the modification work, contract for  
8 modification work or other contract documents.

9 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
10 price as set in the contract for modification work. For the purposes of  
11 this item, "guaranteed maximum price" means the amount guaranteed to be  
12 the maximum amount due to a prime contractor for the performance of all  
13 modification work for the project.

14 (iii) The extent of an adjustment, if any, to the contract time of  
15 performance set forth in the contract.

16 (d) Administration or supervision of any modification performed  
17 pursuant to change directives. For the purposes of this subdivision,  
18 "change directive" means a written order directing a change in  
19 modification work before agreement on an adjustment of the guaranteed  
20 maximum price or contract time.

21 (e) Inspection to determine the dates of substantial completion or  
22 final completion.

23 (f) Preparation of any manuals, warranties, as-built drawings,  
24 spares or other items the prime contractor must furnish pursuant to the  
25 contract for modification work. For the purposes of this subdivision,  
26 "as-built drawing" means a drawing that indicates field changes made to  
27 adapt to field conditions, field changes resulting from change orders or  
28 buried and concealed installation of piping, conduit and utility services.

29 (g) Preparation of status reports after modification work has begun  
30 detailing the progress of work performed, including preparation of any of  
31 the following:

32 (i) Master schedule updates.

33 (ii) Modification work cash flow projection updates.

34 (iii) Site reports made on a periodic basis.

35 (iv) Identification of discrepancies, conflicts or ambiguities in  
36 modification work documents that require resolution.

37 (v) Identification of any health and safety issues that have arisen  
38 in connection with the modification work.

39 (h) Preparation of daily logs of modification work, including  
40 documentation of personnel, weather conditions and on-site occurrences.

41 (i) Preparation of any submittals or shop drawings used by the  
42 prime contractor to illustrate details of the modification work performed.

43 (j) Administration or supervision of any other activities for which  
44 a prime contractor receives a certificate for payment or certificate for

1 final payment based on the progress of modification work performed on the  
2 project.

3 2. "Design phase services" means services for developing and  
4 completing a design for a project that are not construction phase  
5 services, including the following:

6 (a) Evaluating surveys, reports, test results or any other  
7 information on-site conditions for the project, including physical  
8 characteristics, legal limitations and utility locations for the site.

9 (b) Evaluating any criteria or programming objectives for the  
10 project to ascertain requirements for the project, such as physical  
11 requirements affecting cost or projected utilization of the project.

12 (c) Preparing drawings and specifications for architectural program  
13 documents, schematic design documents, design development documents,  
14 modification work documents or documents that identify the scope of or  
15 materials for the project.

16 (d) Preparing an initial schedule for the project, excluding the  
17 preparation of updates to the master schedule after modification work has  
18 begun.

19 (e) Preparing preliminary estimates of costs of modification work  
20 before completion of the final design of the project, including an  
21 estimate or schedule of values for any of the following:

22 (i) Labor, materials, machinery and equipment, tools, water, heat,  
23 utilities, transportation and other facilities and services used in the  
24 execution and completion of modification work, regardless of whether they  
25 are temporary or permanent or whether they are incorporated in the  
26 modifications.

27 (ii) The cost of labor and materials to be furnished by the owner  
28 of the real property.

29 (iii) The cost of any equipment of the owner of the real property  
30 to be assigned by the owner to the prime contractor.

31 (iv) The cost of any labor for installation of equipment separately  
32 provided by the owner of the real property that has been designed,  
33 specified, selected or specifically provided for in any design document  
34 for the project.

35 (v) Any fee paid by the owner of the real property to the prime  
36 contractor pursuant to the contract for modification work.

37 (vi) Any bond and insurance premiums.

38 (vii) Any applicable taxes.

39 (viii) Any contingency fees for the prime contractor that may be  
40 used before final completion of the project.

41 (f) Reviewing and evaluating cost estimates and project documents  
42 to prepare recommendations on site use, site improvements, selection of  
43 materials, building systems and equipment, modification feasibility,  
44 availability of materials and labor, local modification activity as  
45 related to schedules and time requirements for modification work.

(g) Preparing the plan and procedures for selection of subcontractors, including any prequalification of subcontractor candidates.

3. "Professional services" means architect services, engineer services, geologist services, land surveying services or landscape architect services that are within the scope of those services as provided in title 32, chapter 1 and for which gross proceeds of sales or gross income has not otherwise been deducted under subsection K of this section.

0. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax under this section. For the purposes of this subsection:

1. Tangible personal property that is incorporated or fabricated into a project described in this subsection may be subject to the amount prescribed in section 42-5008.01.

2. Each contract is independent of any other contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this chapter, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

P. Notwithstanding subsection 0 of this section, a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is taxable under this section, even if the contract also includes vertical improvements. Agencies that are subject to procurement processes under those provisions shall include in the request for proposals a notice to bidders when those projects are subject to this section. This subsection does not apply to contracts with:

1. Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.

2. Any special taxing district not specified in paragraph 1 of this subsection if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

Q. Notwithstanding subsection R, paragraph 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

2. If the original owner enters into an agreement separate from the contract for sale of the real property providing for amounts to be paid to the original owner for the modifications to be made in the period subsequent to the transfer of title to the property, the amounts are included in the original owner's gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title.

3. If the original owner is responsible to the new owner for modifications made to the property in the period subsequent to the transfer of title and derives any gross proceeds of sale or gross income from the project subsequent to the transfer of title other than a delayed disbursement from escrow unrelated to the modifications, it is presumed that the amounts are received for the modifications made subsequent to the transfer of title unless the contrary is established by the owner through its books, records and papers kept in the regular course of business.

4. The tax base of the original owner is computed in the same manner as a prime contractor under this section.

R. For the purposes of this section:

1. "Alteration" means an activity or action that causes a direct physical change to existing property. For the purposes of this paragraph:

(a) For existing property that is properly classified as class two property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision (c) and that is used for residential purposes, class three property under section 42-12003 or class four property under section



42-12004, this paragraph does not apply if the contract amount is more than twenty-five percent of the most recent full cash value established under chapter 13, article 2 of this title as of the date of any bid for the work or the date of the contract, whichever value is higher.

(b) For all existing property other than existing property described in subdivision (a) of this paragraph, this paragraph does not apply if any of the following is true:

(i) The contract amount is more than seven hundred fifty thousand dollars.

(ii) The scope of work directly relates to more than forty percent of the existing square footage of the existing property.

(iii) The scope of work involves expanding the square footage of more than ten percent of the existing property.

(c) Project elements may not be artificially separated from a contract to cause a project to qualify as an alteration. The department has the burden of proof that project elements have been artificially separated from a contract.

(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.

(e) A change order that directly relates to the scope of work of the original contract shall be treated as part of the original contract, and the contract amount shall include any amount attributable to a change order that directly relates to the scope of work of the original contract.

(f) Alteration does not include maintenance, repair or replacement.

2. "Contracting" means engaging in business as a contractor.

3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.

4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-4001.

1           5. "Manufactured building dealer" means a dealer who either:

2           (a) Is licensed pursuant to title 41, chapter 37, article 4 and who  
3 sells manufactured buildings to the final consumer.

4           (b) Supervises, performs or coordinates the excavation and  
5 completion of site improvements or the setup of a manufactured building,  
6 including the contracting, if any, with any subcontractor or specialty  
7 contractor for the completion of the contract.

8           6. "Modification" means construction, grading and leveling ground,  
9 wreckage or demolition. Modification does not include:

10          (a) Any project described in subsection 0 of this section.

11          (b) Any wreckage or demolition of existing property, or any other  
12 activity that is a necessary component of a project described in  
13 subsection 0 of this section.

14          (c) Any mobilization or demobilization related to a project  
15 described in subsection 0 of this section, such as the erection or removal  
16 of temporary facilities to be used by those persons working on the  
17 project.

18          7. "Modify" means to make a modification or cause a modification to  
19 be made.

20          8. "Owner" means the person that holds title to the real property  
21 or improvements to real property that is the subject of the work, as well  
22 as an agent of the title holder and any person with the authority to  
23 perform or authorize work on the real property or improvements, including  
24 a tenant and a property manager. For the purposes of subsection 0 of this  
25 section, a person who is hired by a general contractor that is hired by an  
26 owner, or a subcontractor of a general contractor that is hired by an  
27 owner, is considered to be hired by the owner.

28          9. "Prime contracting" means engaging in business as a prime  
29 contractor.

30          10. "Prime contractor" means a contractor who supervises, performs  
31 or coordinates the modification of any building, highway, road, railroad,  
32 excavation, manufactured building or other structure, project, development  
33 or improvement, including the contracting, if any, with any subcontractors  
34 or specialty contractors and who is responsible for the completion of the  
35 contract. Except as provided in subsections E and Q of this section, a  
36 person who owns real property, who engages one or more contractors to  
37 modify that real property and who does not itself modify that real  
38 property is not a prime contractor within the meaning of this paragraph  
39 regardless of the existence of a contract for sale or the subsequent sale  
40 of that real property.

41          11. "Replacement" means the removal from service of one component  
42 or system of existing property or tangible personal property installed in  
43 existing property, including machinery or equipment, and the installation  
44 of a new component or system or new tangible personal property, including  
45 machinery or equipment, that provides the same, a similar or an upgraded

design or functionality, regardless of the contract amount and regardless of whether the existing component or system or existing tangible personal property is physically removed from the existing property.

12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 54. Title 42, chapter 5, article 2, Arizona Revised Statutes, is amended by adding section 42-5077, to read:

42-5077. Retail motor vehicle fuel classification; preemption; definitions

A. THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION IS COMPRISED OF THE BUSINESS OF SELLING MOTOR VEHICLE FUEL TO CUSTOMERS OPERATING MOTOR VEHICLES OR WATERCRAFT FOR THEIR OWN CONSUMPTIVE USE ON THE HIGHWAYS OR WATERWAYS OF THIS STATE AND NOT FOR RESALE. THE TAX BASE FOR THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION IS THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE BUSINESS.

B. THE FOLLOWING ARE EXEMPT FROM TAX UNDER THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION, AND THE TAXPAYER SHALL DEDUCT SALES OF THE FOLLOWING FROM THE TAX BASE:

1. MOTOR VEHICLE FUEL THAT IS SOLD WITHIN AN INDIAN RESERVATION TO AN ENROLLED MEMBER OF THE INDIAN TRIBE WHO IS LIVING ON THE INDIAN RESERVATION ESTABLISHED FOR THE BENEFIT OF THAT INDIAN TRIBE AND THAT IS USED BY THE ENROLLED MEMBER FOR THE ENROLLED MEMBER'S OWN BENEFIT. THIS PARAGRAPH DOES NOT APPLY TO SALES OF FUEL WITHIN AN INDIAN RESERVATION BY AN INDIAN OR INDIAN TRIBE TO NON-INDIAN CUSTOMERS OR TO INDIAN CUSTOMERS WHO ARE NOT MEMBERS OF THE INDIAN TRIBE FOR WHICH THE RESERVATION WAS ESTABLISHED OR USED TO OPERATE MOTOR VEHICLES FOR A COMMERCIAL PURPOSE OUTSIDE OF THE RESERVATION ON HIGHWAYS IN THIS STATE. FOR THE PURPOSES OF THIS PARAGRAPH, "INDIAN" MEANS AN INDIVIDUAL WHO IS REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT THE RESERVATION WAS CREATED.

2. MOTOR VEHICLE FUEL THAT IS SOLD SOLELY AND EXCLUSIVELY TO OPERATE A MOTOR VEHICLE THAT IS OWNED BY OR LEASED TO AND IS BEING OPERATED FOR THE SOLE BENEFIT OF AN INDIAN TRIBE ON HIGHWAYS IN THIS STATE FOR GOVERNMENTAL PURPOSES ONLY.

3. MOTOR VEHICLE FUEL THAT IS SOLD TO THE UNITED STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES.

4. MOTOR VEHICLE FUEL THAT IS SOLD TO A RAILROAD COMMON CARRIER FOR USE IN OPERATING LOCOMOTIVES AND OTHER VEHICLES ON RAILROAD TRACKS.

5. CONTAMINATED MOTOR VEHICLE FUEL THAT IS UNSALABLE AS HIGHWAY FUEL, AS PROVED BY PROPER DOCUMENTATION.

6. MOTOR VEHICLE FUEL THAT IS SOLD TO A QUALIFIED BUSINESS UNDER SECTION 41-1516 FOR OFF-ROAD USE IN HARVESTING, PROCESSING OR TRANSPORTING QUALIFYING FOREST PRODUCTS REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN SECTION 41-1516.

1 C. SALES OF FUEL, INCLUDING DYED DIESEL FUEL, USED BY EITHER OF THE  
2 FOLLOWING ARE EXEMPT FROM TAX AND SHALL BE DEDUCTED FROM THE TAX BASE OF  
3 THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION:

4 1. A FARM TRACTOR OR IMPLEMENT OF HUSBANDRY THAT IS DESIGNED  
5 PRIMARILY FOR OR USED IN AGRICULTURAL OPERATIONS AND THAT IS ONLY  
6 INCIDENTALLY OPERATED OR MOVED ON A HIGHWAY.

7 2. A ROAD ROLLER OR OTHER VEHICLE THAT IS ALL OF THE FOLLOWING:

8 (a) DESIGNED AND USED PRIMARILY FOR GRADING, PAVING, EARTHMOVING OR  
9 OTHER CONSTRUCTION WORK ON A HIGHWAY.

10 (b) NOT DESIGNED OR USED PRIMARILY FOR TRANSPORTING PERSONS OR  
11 PROPERTY.

12 (c) INCIDENTALLY OPERATED OR MOVED OVER THE HIGHWAY.

13 D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, SALES OF MOTOR  
14 VEHICLE FUEL USED BY ANY OF THE FOLLOWING ARE NOT EXEMPT FROM TAX:

15 1. A VEHICLE THAT WAS ORIGINALLY DESIGNED FOR TRANSPORTING PERSONS  
16 OR PROPERTY AND TO WHICH MACHINERY IS ATTACHED OR ON WHICH MACHINERY OR  
17 OTHER PROPERTY MAY BE TRANSPORTED.

18 2. A DUMP TRUCK.

19 3. A TRUCK-MOUNTED TRANSIT MIXER.

20 4. A TRUCK-MOUNTED OR TRAILER-MOUNTED CRANE.

21 5. A TRUCK-MOUNTED OR TRAILER-MOUNTED SHOVEL.

22 E. IF A PERSON IS ENGAGED IN BUSINESS TO WHICH THIS SECTION  
23 APPLIES, THE PERSON'S BOOKS MUST BE KEPT SO AS TO SHOW SEPARATELY THE  
24 GROSS PROCEEDS OF SALES OF MOTOR VEHICLE FUEL, THE GROSS PROCEEDS OF SALES  
25 OF OTHER TANGIBLE PERSONAL PROPERTY AND THE GROSS INCOME FROM ANY SALES OF  
26 SERVICES. IF THE PERSON FAILS TO MAINTAIN SEPARATE ACCOUNTS, THE TAX  
27 PURSUANT TO THIS SECTION SHALL BE IMPOSED ON THE TOTAL AMOUNT OF THE GROSS  
28 PROCEEDS OF SALES OF MOTOR VEHICLE FUEL, THE GROSS PROCEEDS OF SALES OF  
29 OTHER TANGIBLE PERSONAL PROPERTY AND GROSS INCOME FROM ANY SALES OF  
30 SERVICES.

31 F. THE AREA OF TAXATION OF MOTOR VEHICLE FUEL AND ITS DISTRIBUTION  
32 AND SALE AND OF THE GROSS PROCEEDS OR GROSS INCOME FROM THE SALE OF MOTOR  
33 VEHICLE FUEL IS PREEMPTED BY THIS STATE, AND A COUNTY, CITY, TOWN OR OTHER  
34 POLITICAL SUBDIVISION OF THIS STATE MAY NOT LEVY SUCH A TAX UNLESS  
35 EXPRESSLY AUTHORIZED BY LAW.

36 G. FOR THE PURPOSES OF THIS SECTION:

37 1. "MOTOR VEHICLE" MEANS A SELF-PROPELLED VEHICLE THAT IS OPERATED  
38 ON THE HIGHWAYS OF THIS STATE AND THAT IS PROPELLED BY AN INTERNAL  
39 COMBUSTION ENGINE USING MOTOR VEHICLE FUEL.

40 2. "MOTOR VEHICLE FUEL":

41 (a) MEANS FLAMMABLE LIQUIDS OR GASES THAT ARE MANUFACTURED, BLENDED  
42 AND MARKETING EXPRESSLY FOR OPERATING INTERNAL COMBUSTION ENGINES THAT  
43 PROPEL MOTOR VEHICLES AND WATERCRAFT.

(b) INCLUDES:

(i) ALL PRODUCTS THAT ARE COMMONLY OR COMMERCIALY KNOWN OR SOLD AS GASOLINE, INCLUDING CASINGHEAD GASOLINE, NATURAL GASOLINE AND OXYGENATED GASOLINE.

(ii) DIESEL FUEL, BIODIESEL AND BIOMASS-BASED DIESEL, AS DEFINED IN SECTION 3-3401, AND BLENDS OF THOSE PRODUCTS.

(iii) PROPANE, LIQUEFIED PETROLEUM GAS, NATURAL GAS OR HYDROGEN OR A BLEND OF THOSE PRODUCTS AS DESCRIBED IN SECTION 1-215, PARAGRAPH 4, SUBDIVISION (c).

(c) DOES NOT INCLUDE:

(i) AVIATION FUEL THAT IS SUBJECT TO THE TAX IMPOSED UNDER SECTION 28-8344.

(ii) JET FUEL THAT IS SUBJECT TO THE TAX IMPOSED UNDER ARTICLE 8 OF THIS CHAPTER.

(iii) FLAMMABLE LIQUIDS THAT ARE SPECIFICALLY MANUFACTURED FOR RACING MOTOR VEHICLES AND THAT ARE DISTRIBUTED FOR AND USED BY RACING MOTOR VEHICLES AT A RACETRACK.

(iv) TRANSMIX AS DEFINED IN SECTION 28-5601.

Sec. 55. Section 42-5151, Arizona Revised Statutes, is amended to read:

~~42-5151.~~ Definitions

In this article, unless the context otherwise requires:

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

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

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

~~6.~~ 4. "Electricity" means electric energy, electric capacity or electric capacity and energy.

~~7.~~ 5. "Electricity supplier" means a person, whether acting in a principal, agent or other capacity, that offers to sell electricity to a retail electric customer in this state.

~~4.~~ 6. "Electric transmission service" means transmitting electricity to retail electric customers or to electric distribution facilities so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

~~5.~~ 7. "Electric utility services" means the business of providing electric ancillary services, electric distribution services, electric

1 generation services, electric transmission services and other services  
2 related to providing electricity.

3 8. "Natural gas" means natural or artificial gas, and includes  
4 methane and propane gas, the natural gas commodity, natural gas pipeline  
5 capacity or natural gas commodity and pipeline capacity.

6 9. "Natural gas utility services" means the business of selling  
7 natural gas or providing natural gas transportation services or other  
8 services related to providing natural gas.

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

12 11. "Other services" includes metering, meter reading services,  
13 billing and collecting services.

14 12. "Person" means an individual, firm, partnership, joint venture,  
15 association, corporation, estate, trust, receiver or syndicate, this state  
16 or a county, city, municipality, district or other political subdivision  
17 or agency thereof.

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

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

30 (a) Discounts allowed and taken.

31 (b) Charges for labor or services in installing, remodeling or  
32 repairing.

33 (c) Freight costs billed to and collected from a purchaser by a  
34 retailer for tangible personal property ~~which~~ THAT, on the order of the  
35 retailer, is shipped directly from a manufacturer or wholesaler to the  
36 purchaser.

37 (d) Amounts attributable to federal excise taxes imposed by 26  
38 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and  
39 trailers and automobiles or on sales of use fuel, ~~as defined in section~~  
40 ~~28-5601~~ REGULATED UNDER TITLE 28.

41 (e) The value of merchandise that is traded in on the purchase of  
42 new or pre-owned merchandise when the trade-in allowance is deducted from  
43 the sales price of the new or pre-owned merchandise before the completion  
44 of the sale.

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

4       ~~17.~~ 16. "Retailer" includes:

5       (a) Every person engaged in the business of making sales of  
6 tangible personal property for storage, use or other consumption or in the  
7 business of making sales at auction of tangible personal property owned by  
8 that person or others for storage, use or other consumption. If in the  
9 opinion of the department it is necessary for the efficient administration  
10 of this article to regard any salesmen, representatives, peddlers or  
11 canvassers as the agents of the dealers, distributors, supervisors or  
12 employers under whom they operate or from whom they obtain the tangible  
13 personal property sold by them, regardless of whether they are making  
14 sales on their own behalf or on behalf of such dealers, distributors,  
15 supervisors or employers, the department may so regard them and may regard  
16 the dealers, distributors, supervisors or employers as retailers for  
17 purposes of this article.

18       (b) A person who solicits orders for tangible personal property by  
19 mail if the solicitations are substantial and recurring or if the retailer  
20 benefits from any banking, financing, debt collection, telecommunication,  
21 television shopping system, cable, optic, microwave or other communication  
22 system or marketing activities occurring in this state or benefits from  
23 the location in this state of authorized installation, servicing or repair  
24 facilities.

25       ~~16.~~ 17. "Retail natural gas customer" means a person who purchases  
26 natural gas for that person's own use, including use in that person's  
27 trade or business, and not for resale, redistribution or retransmission.

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

32       19. "Solar energy device" means a system or series of mechanisms  
33 designed primarily to provide heating, to provide cooling, to produce  
34 electrical power, to produce mechanical power, to provide solar  
35 daylighting or to provide any combination of the foregoing by means of  
36 collecting and transferring solar generated energy into such uses by  
37 either active or passive means, including wind generator systems that  
38 produce electricity. Solar energy systems may also have the capability of  
39 storing solar energy for future use. Passive systems shall clearly be  
40 designed as a solar energy device, such as a trombe wall, and not merely  
41 as a part of a normal structure, such as a window.

42       20. "Storage" means keeping or retaining tangible personal property  
43 purchased from a retailer for any purpose except sale in the regular  
44 course of business or subsequent use solely outside this state. For the  
45 purposes of this paragraph, sale in the regular course of business does

not include the transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

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

22. "Use or consumption" means the exercise of any right or power over tangible personal property incidental to owning the property except holding for sale or selling the property in the regular course of business. For the purposes of this paragraph, selling the property in the regular course of business does not include the transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

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

Sec. 56. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

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

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

2. Tangible personal property, the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax



1 imposed by this article under the laws of another state of the United  
2 States. If the excise tax imposed by the other state is at a rate less  
3 than the tax imposed by this article, the tax imposed by this article is  
4 reduced by the amount of the tax already imposed by the other state.

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

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

13 5. Motor vehicle fuel ~~and use fuel, the sales, distribution or use~~  
14 ~~of which in this state is subject to the tax imposed under title 28,~~  
15 ~~chapter 16, article 1, use fuel that is sold to or used by a person~~  
16 ~~holding a valid single trip use fuel tax permit issued under~~  
17 ~~section 28-5739~~ SOLD BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL  
18 MOTOR VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077, aviation fuel,  
19 the sales, distribution or use of which in this state is subject to the  
20 tax imposed under section 28-8344, and jet fuel, the sales, distribution  
21 or use of which in this state is subject to the tax imposed under article  
22 8 of this chapter.

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

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

34 8. Purchases of:

35 (a) Livestock and poultry to persons engaging in the businesses of  
36 farming, ranching or producing livestock or poultry.

37 (b) Livestock and poultry feed, salts, vitamins and other additives  
38 sold to persons for use or consumption in the businesses of farming,  
39 ranching and producing or feeding livestock or poultry or for use or  
40 consumption in noncommercial boarding of livestock. For the purposes of  
41 this paragraph, "poultry" includes ratites.

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

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

5           11. Advertising supplements that are intended for sale with  
6 newspapers published in this state and that have already been subjected to  
7 an excise tax under the laws of another state in the United States that  
8 equals or exceeds the tax imposed by this article.

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

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

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

15           13. Tangible personal property purchased by:

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

19           (b) A hospital operated by this state or a political subdivision of  
20 this state.

21           (c) A licensed nursing care institution or a licensed residential  
22 care institution or a residential care facility operated in conjunction  
23 with a licensed nursing care institution or a licensed kidney dialysis  
24 center, which provides medical services, nursing services or health  
25 related services and is not used or held for profit.

26           (d) A qualifying health care organization, as defined in section  
27 42-5001, if the tangible personal property is used by the organization  
28 solely to provide health and medical related educational and charitable  
29 services.

30           (e) A qualifying health care organization as defined in section  
31 42-5001 if the organization is dedicated to providing educational,  
32 therapeutic, rehabilitative and family medical education training for  
33 blind and visually impaired children and children with multiple  
34 disabilities from the time of birth to age twenty-one.

35           (f) A nonprofit charitable organization that has qualified under  
36 section 501(c)(3) of the United States internal revenue code and that  
37 engages in and uses such property exclusively in programs for persons with  
38 mental or physical disabilities if the programs are exclusively for  
39 training, job placement, rehabilitation or testing.

40           (g) A person that is subject to tax under this chapter by reason of  
41 being engaged in business classified under section 42-5075, or a  
42 subcontractor working under the control of a person that is engaged in  
43 business classified under section 42-5075, if the tangible personal  
44 property is any of the following:

1 (i) Incorporated or fabricated by the person into a structure,  
2 project, development or improvement in fulfillment of a contract.

3 (ii) Incorporated or fabricated by the person into any project  
4 described in section 42-5075, subsection 0.

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

7 (h) A person that is not subject to tax under section 42-5075 and  
8 that has been provided a copy of a certificate described in section  
9 42-5009, subsection L, if the property purchased is incorporated or  
10 fabricated by the person into the real property, structure, project,  
11 development or improvement described in the certificate.

12 (i) A nonprofit charitable organization that has qualified under  
13 section 501(c)(3) of the internal revenue code if the property is  
14 purchased from the parent or an affiliate organization that is located  
15 outside this state.

16 (j) A qualifying community health center as defined in section  
17 42-5001.

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

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

26 (m) For taxable periods beginning from and after June 30, 2001, a  
27 nonprofit charitable organization that has qualified under section  
28 501(c)(3) of the internal revenue code and that provides residential  
29 apartment housing for low income persons over sixty-two years of age in a  
30 facility that qualifies for a federal housing subsidy, if the tangible  
31 personal property is used by the organization solely to provide  
32 residential apartment housing for low income persons over sixty-two years  
33 of age in a facility that qualifies for a federal housing subsidy.

34 (n) A qualifying health sciences educational institution as defined  
35 in section 42-5001.

36 (o) A person representing or working on behalf of any person  
37 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)  
38 or (n) of this paragraph, if the tangible personal property is  
39 incorporated or fabricated into a project described in section 42-5075,  
40 subsection 0.

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

1           15. Tangible personal property sold by:

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

5           (b) A nonprofit organization that is exempt from taxation under  
6 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if  
7 the organization is associated with a major league baseball team or a  
8 national touring professional golfing association and no part of the  
9 organization's net earnings inures to the benefit of any private  
10 shareholder or individual.

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

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

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

25           18. Prescription eyeglasses and contact lenses.

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

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

28           21. Durable medical equipment that 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,  
31 chapter 7, 13, 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  
34 the home.

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

37           23. Items purchased with United States department of agriculture  
38 food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113;  
39 91 Stat. 958) or food instruments issued under section 17 of the child  
40 nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42  
41 United States Code section 1786).

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

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

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

9           27. Lottery tickets or shares purchased pursuant to title 5,  
10 chapter 5.1, article 1.

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

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

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

18           31. Coal, petroleum, coke, natural gas, virgin fuel oil and  
19 electricity purchased by a qualified environmental technology  
20 manufacturer, producer or processor as defined in section 41-1514.02 and  
21 directly used or consumed in the generation or provision of on-site power  
22 or energy solely for environmental technology manufacturing, producing or  
23 processing or environmental protection. This paragraph shall apply for  
24 twenty full consecutive calendar or fiscal years from the date the first  
25 paper manufacturing machine is placed in service. In the case of an  
26 environmental technology manufacturer, producer or processor who does not  
27 manufacture paper, the time period shall begin with the date the first  
28 manufacturing, processing or production equipment is placed in service.

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

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

33           (b) Public educational institutions.

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

37           33. Natural gas or liquefied petroleum gas used to propel a motor  
38 vehicle **AND SOLD BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL MOTOR**  
39 **VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077.**

40           34. Machinery, equipment, technology or related supplies that are  
41 only useful to assist a person with a physical disability as defined in  
42 section 46-191 or a person who has a developmental disability as defined  
43 in section 36-551 or has a head injury as defined in section 41-3201 to be  
44 more independent and functional.

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

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

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

23       38. Tangible personal property that is or directly enters into and  
24 becomes an ingredient or component part of cards used as prescription plan  
25 identification cards.

26       39. Overhead materials or other tangible personal property that is  
27 used in performing a contract between the United States government and a  
28 manufacturer, modifier, assembler or repairer, including property used in  
29 performing a subcontract with a government contractor who is a  
30 manufacturer, modifier, assembler or repairer, to which title passes to  
31 the government under the terms of the contract or subcontract. For the  
32 purposes of this paragraph:

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

40       (b) "Subcontract" means an agreement between a contractor and any  
41 person who is not an employee of the contractor for furnishing of supplies  
42 or services that, in whole or in part, are necessary to the performance of  
43 one or more government contracts, or under which any portion of the  
44 contractor's obligation under one or more government contracts is  
45 performed, undertaken or assumed, and that includes provisions causing

1 title to overhead materials or other tangible personal property used in  
2 the performance of the subcontract to pass to the government or that  
3 includes provisions incorporating such title passing clauses in a  
4 government contract into the subcontract.

5 40. Through December 31, 1994, tangible personal property sold  
6 pursuant to a personal property liquidation transaction, as defined in  
7 section 42-5061. From and after December 31, 1994, tangible personal  
8 property sold pursuant to a personal property liquidation transaction, as  
9 defined in section 42-5061, if the gross proceeds of the sales were  
10 included in the measure of the tax imposed by article 1 of this chapter or  
11 if the personal property liquidation was a casual activity or transaction.

12 41. Wireless telecommunications equipment that is held for sale or  
13 transfer to a customer as an inducement to enter into or continue a  
14 contract for telecommunications services that are taxable under section  
15 42-5064.

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

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

27 44. Alternative fuel vehicles if the vehicle was manufactured as a  
28 diesel fuel vehicle and converted to operate on alternative fuel and  
29 equipment that is installed in a conventional diesel fuel motor vehicle to  
30 convert the vehicle to operate on an alternative fuel, as defined in  
31 section 1-215.

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

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

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

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

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

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

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

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

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

17           (b) "Curriculum design or enhancement" means planning, implementing  
18 or reporting on courses of study, lessons, assignments or other learning  
19 activities.

20           51. Motor vehicle fuel and use fuel to a qualified business under  
21 section 41-1516 for off-road use in harvesting, processing or transporting  
22 qualifying forest products removed from qualifying projects as defined in  
23 section 41-1516.

24           52. Repair parts installed in equipment used directly by a  
25 qualified business under section 41-1516 in harvesting, processing or  
26 transporting qualifying forest products removed from qualifying projects  
27 as defined in section 41-1516.

28           53. Renewable energy credits or any other unit created to track  
29 energy derived from renewable energy resources. For the purposes of this  
30 paragraph, "renewable energy credit" means a unit created administratively  
31 by the corporation commission or governing body of a public power entity  
32 to track kilowatt hours of electricity derived from a renewable energy  
33 resource or the kilowatt hour equivalent of conventional energy resources  
34 displaced by distributed renewable energy resources.

35           54. Computer data center equipment sold to the owner, operator or  
36 qualified colocation tenant of a computer data center that is certified by  
37 the Arizona commerce authority under section 41-1519 or an authorized  
38 agent of the owner, operator or qualified colocation tenant during the  
39 qualification period for use in the qualified computer data center. For  
40 the purposes of this paragraph, "computer data center", "computer data  
41 center equipment", "qualification period" and "qualified colocation  
42 tenant" have the same meanings prescribed in section 41-1519.

43           55. Coal acquired from an owner or operator of a power plant by a  
44 person who is responsible for refining coal if both of the following  
45 apply:



(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection 0, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

(i) Items that are sold to one or more persons and through which a value is not denominated in money.

(ii) Prepaid calling cards for telecommunications services.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or

are used as a medium of exchange in this or another state, the United States or a foreign nation.

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

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data

transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

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

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

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

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

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

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

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

19. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural,

horticultural, viticultural or floricultural crops or products in this state, including production by a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

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

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

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

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

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

22. Machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant

1 to subsection B, paragraph 11 of this section, without regard to the use  
2 of such motor vehicles.

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

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

6 8. Machinery and equipment or tangible personal property used by a  
7 contractor in the performance of a contract.

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

10 1. Revenues received from sales of ancillary services, electric  
11 distribution services, electric generation services, electric transmission  
12 services and other services related to providing electricity to a retail  
13 electric customer who is located outside this state for use outside this  
14 state if the electricity is delivered to a point of sale outside this  
15 state.

16 2. Revenues received from providing electricity, including  
17 ancillary services, electric distribution services, electric generation  
18 services, electric transmission services and other services related to  
19 providing electricity with respect to which the transaction privilege tax  
20 imposed under section 42-5063 has been paid.

21 E. The tax levied by this article does not apply to the purchase of  
22 solar energy devices from a retailer that is registered with the  
23 department as a solar energy retailer or a solar energy contractor.

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

26 1. Fees charged by a municipally owned utility to persons  
27 constructing residential, commercial or industrial developments or  
28 connecting residential, commercial or industrial developments to a  
29 municipal utility system or systems if the fees are segregated and used  
30 only for capital expansion, system enlargement or debt service of the  
31 utility system or systems.

32 2. Reimbursement or contribution compensation to any person or  
33 persons owning a utility system for property and equipment installed to  
34 provide utility access to, on or across the land of an actual utility  
35 consumer if the property and equipment become the property of the utility.  
36 This deduction shall not exceed the value of such property and equipment.

37 G. The tax levied by this article does not apply to the purchase  
38 price of electricity, natural gas or liquefied petroleum gas by:

39 1. A qualified manufacturing or smelting business. A utility that  
40 claims this deduction shall report each month, on a form prescribed by the  
41 department, the name and address of each qualified manufacturing or  
42 smelting business for which this deduction is taken. This paragraph  
43 applies to gas transportation services. For the purposes of this  
44 paragraph:

1 (a) "Gas transportation services" means the services of  
2 transporting natural gas to a natural gas customer or to a natural gas  
3 distribution facility if the natural gas was purchased from a supplier  
4 other than the utility.

5 (b) "Manufacturing" means the performance as a business of an  
6 integrated series of operations that places tangible personal property in  
7 a form, composition or character different from that in which it was  
8 acquired and transforms it into a different product with a distinctive  
9 name, character or use. Manufacturing does not include job printing,  
10 publishing, packaging, mining, generating electricity or operating a  
11 restaurant.

12 (c) "Qualified manufacturing or smelting business" means one of the  
13 following:

14 (i) A business that manufactures or smelts tangible products in  
15 this state, of which at least fifty-one percent of the manufactured or  
16 smelted products will be exported out of state for incorporation into  
17 another product or sold out of state for a final sale.

18 (ii) A business that derives at least fifty-one percent of its  
19 gross income from the sale of manufactured or smelted products  
20 manufactured or smelted by the business.

21 (iii) A business that uses at least fifty-one percent of its square  
22 footage in this state for manufacturing or smelting and business  
23 activities directly related to manufacturing or smelting.

24 (iv) A business that employs at least fifty-one percent of its  
25 workforce in this state in manufacturing or smelting and business  
26 activities directly related to manufacturing or smelting.

27 (v) A business that uses at least fifty-one percent of the value of  
28 its capitalized assets in this state, as reflected on the business's books  
29 and records, for manufacturing or smelting and business activities  
30 directly related to manufacturing or smelting.

31 (d) "Smelting" means to melt or fuse a metalliferous mineral, often  
32 with an accompanying chemical change, usually to separate the metal.

33 2. A business that operates an international operations center in  
34 this state and that is certified by the Arizona commerce authority  
35 pursuant to section 41-1520.

36 H. For the purposes of subsection B of this section:

37 1. "Agricultural aircraft" means an aircraft that is built for  
38 agricultural use for the aerial application of pesticides or fertilizer or  
39 for aerial seeding.

40 2. "Aircraft" includes:

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



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

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

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

Sec. 57. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. Exemption from municipal tax; definitions

A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination outside this state.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.

7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

8. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

1           9. Sales of internet access services to the person's subscribers  
2 and customers. For the purposes of this paragraph:

3           (a) "Internet" means the computer and telecommunications facilities  
4 that comprise the interconnected worldwide network of networks that employ  
5 the transmission control protocol or internet protocol, or any predecessor  
6 or successor protocol, to communicate information of all kinds by wire or  
7 radio.

8           (b) "Internet access" means a service that enables users to access  
9 content, information, electronic mail or other services over the internet.  
10 Internet access does not include telecommunication services provided by a  
11 common carrier.

12           10. The gross proceeds of sales or gross income retained by the  
13 Arizona exposition and state fair board from ride ticket sales at the  
14 annual Arizona state fair.

15           11. Leasing real property between affiliated companies, businesses,  
16 persons or reciprocal insurers. For the purposes of this paragraph:

17           (a) "Affiliated companies, businesses, persons or reciprocal  
18 insurers" means the lessor holds a controlling interest in the lessee, the  
19 lessee holds a controlling interest in the lessor, affiliated persons hold  
20 a controlling interest in both the lessor and the lessee, or an unrelated  
21 person holds a controlling interest in both the lessor and lessee.

22           (b) "Affiliated persons" means members of the individual's family  
23 or persons who have ownership or control of a business entity.

24           (c) "Controlling interest" means direct or indirect ownership of at  
25 least eighty percent of the voting shares of a corporation or of the  
26 interests in a company, business or person other than a corporation.

27           (d) "Members of the individual's family" means the individual's  
28 spouse and brothers and sisters, whether by whole or half blood, including  
29 adopted persons, ancestors and lineal descendants.

30           (e) "Reciprocal insurer" has the same meaning prescribed in section  
31 20-762.

32           12. The gross proceeds of sales or gross income derived from a  
33 contract for the installation, assembly, repair or maintenance of  
34 machinery, equipment or other tangible personal property that is described  
35 in section 42-5061, subsection B and that has independent functional  
36 utility, pursuant to the following provisions:

37           (a) The deduction provided in this paragraph includes the gross  
38 proceeds of sales or gross income derived from all of the following:

39           (i) Any activity performed on machinery, equipment or other  
40 tangible personal property with independent functional utility.

41           (ii) Any activity performed on any tangible personal property  
42 relating to machinery, equipment or other tangible personal property with  
43 independent functional utility in furtherance of any of the purposes  
44 provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

13. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

14. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

15. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification

activity does not subject the contract or any part of the contract to tax.  
For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

16. Monitoring services relating to an alarm system as defined in section 32-101.

17. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

18. The transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining

process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

19. The gross proceeds of sales or gross income from sales of low or reduced cost articles of food or drink to eligible elderly or homeless persons or persons with a disability by a business subject to tax under section 42-5074 that contracts with the department of economic security and that is approved by the food and nutrition service of the United States department of agriculture pursuant to the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the supplemental nutrition assistance program.

20. Tangible personal property incorporated or fabricated into a project described in paragraph 15 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of that Indian tribe.

21. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

22. Until March 1, 2017, the gross proceeds of sales or gross income derived from entry fees paid by participants for events that consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

23. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by

1 nonprofit organizations that are exempt from taxation under section  
2 501(c)(3) of the internal revenue code and of which no part of the  
3 organization's net earnings inures to the benefit of any private  
4 shareholder or individual, if the event consists of a run, walk, swim or  
5 bicycle ride or a similar event, or any combination of these events.

6 B. A city, town or other taxing jurisdiction shall not levy a  
7 transaction privilege, sales, use, franchise or other similar tax or fee,  
8 however denominated, on ~~natural gas or liquefied petroleum gas used to~~  
9 ~~propel a~~ ANY motor vehicle FUEL SOLD BY A PERSON WHO IS SUBJECT TO TAX  
10 UNDER THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077.

11 C. A city, town or other taxing jurisdiction shall not levy a  
12 transaction privilege, sales, gross receipts, use, franchise or other  
13 similar tax or fee, however denominated, on gross proceeds of sales or  
14 gross income derived from any of the following:

15 1. A motor carrier's use on the public highways in this state if  
16 the motor carrier is subject to a fee prescribed in title 28, chapter 16,  
17 article 4.

18 2. Leasing, renting or licensing a motor vehicle subject to and on  
19 which the fee has been paid under title 28, chapter 16, article 4.

20 3. The sale of a motor vehicle and any repair and replacement parts  
21 and tangible personal property becoming a part of such motor vehicle to a  
22 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
23 article 4 and who is engaged in the business of leasing, renting or  
24 licensing such property.

25 4. Incarcerating or detaining in a privately operated prison, jail  
26 or detention facility prisoners who are under the jurisdiction of the  
27 United States, this state or any other state or a political subdivision of  
28 this state or of any other state.

29 5. Transporting for hire persons, freight or property by light  
30 motor vehicles subject to a fee under title 28, chapter 15, article 4.

31 6. Any amount attributable to development fees that are incurred in  
32 relation to the construction, development or improvement of real property  
33 and paid by the taxpayer as defined in the model city tax code or by a  
34 contractor providing services to the taxpayer. For the purposes of this  
35 paragraph:

36 (a) The attributable amount shall not exceed the value of the  
37 development fees actually imposed.

38 (b) The attributable amount is equal to the total amount of  
39 development fees paid by the taxpayer or by a contractor providing  
40 services to the taxpayer and the total development fees credited in  
41 exchange for the construction of, contribution to or dedication of real  
42 property for providing public infrastructure, public safety or other  
43 public services necessary to the development. The real property must be  
44 the subject of the development fees.

1 (c) "Development fees" means fees imposed to offset capital costs  
2 of providing public infrastructure, public safety or other public services  
3 to a development and authorized pursuant to section 9-463.05, section  
4 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
5 paid.

6 7. Any amount attributable to fees collected by transportation  
7 network companies issued a permit pursuant to section 28-9552.

8 8. Transporting for hire persons by transportation network company  
9 drivers on transactions involving transportation network services as  
10 defined in section 28-9551.

11 9. Transporting for hire persons by vehicle for hire companies that  
12 are issued permits pursuant to section 28-9503.

13 10. Transporting for hire persons by vehicle for hire drivers on  
14 transactions involving vehicle for hire services as defined in section  
15 28-9501.

16 D. A city, town or other taxing jurisdiction shall not levy a  
17 transaction privilege, sales, use, franchise or other similar tax or fee,  
18 however denominated, in excess of one-tenth of one percent of the value of  
19 the entire product mined, smelted, extracted, refined, produced or  
20 prepared for sale, profit or commercial use, on persons engaged in the  
21 business of mineral processing, except to the extent that the tax is  
22 computed on the gross proceeds or gross income from sales at retail.

23 E. In computing the tax base, any city, town or other taxing  
24 jurisdiction shall not include in the gross proceeds of sales or gross  
25 income:

26 1. A manufacturer's cash rebate on the sales price of a motor  
27 vehicle if the buyer assigns the buyer's right in the rebate to the  
28 retailer.

29 2. The waste tire disposal fee imposed pursuant to section 44-1302.

30 F. A city or town shall not levy a use tax on the storage, use or  
31 consumption of tangible personal property in the city or town by a school  
32 district or charter school.

33 G. For the purposes of this section:

34 1. "Cable operator" has the same meaning prescribed in section  
35 9-505.

36 2. "Electrical services" means transmitting or distributing  
37 electricity, electric lights, current or power over lines, wires or  
38 cables.

39 3. "Telecommunication services" means transmitting or relaying  
40 sound, visual image, data, information, images or material over lines,  
41 wires or cables by radio signal, light beam, telephone, telegraph or other  
42 electromagnetic means.

43 4. "Utility pole" means any wooden, metal or other pole used for  
44 utility purposes and the pole's appurtenances that are attached or  
45 authorized for attachment by the person controlling the pole.

1           Sec. 58. Section 42-6010, Arizona Revised Statutes, is amended to  
2 read:

3           42-6010. Retail business location municipal tax incentives;  
4                     ~~prohibition;~~ ~~penalty;~~ ~~exceptions;~~ ~~definitions~~

5           A. If at least sixty-five ~~per cent~~ PERCENT of the land area within  
6 a city's or town's exterior boundaries is located within the exterior  
7 boundary of a metropolitan statistical area having a population of more  
8 than two million persons, the city or town shall not offer or provide a  
9 tax incentive to a business entity as an inducement or in exchange for  
10 locating or relocating a retail business facility in the city or town.

11           B. A city or town that violates this section is subject to a  
12 penalty equal to the amount of the incentive realized by the taxpayer,  
13 extended over a period of sixty months. The department of revenue shall  
14 notify the state treasurer to withhold the amount of the penalty from  
15 monies otherwise payable to the city or town as provided by section  
16 42-5029, subsection ~~J~~ K.

17           C. The city or town shall report to the department of revenue the  
18 value of any tax incentive used as an inducement or in exchange for  
19 locating or relocating a retail business facility in the city or  
20 town. For the purposes of this subsection, the value includes all  
21 negotiated amounts, in any form and whether actual, realized or  
22 contingent, over the term of the incentive agreement.

23           D. This section does not apply with respect to:

24           1. Municipal services and benefits generally afforded by ordinance  
25 to all new businesses in the city or town, having no direct ~~affect~~ EFFECT  
26 on municipal tax levies.

27           2. Tax incentives that are afforded to all existing retail business  
28 facilities in the city or town.

29           3. Tax incentives for locating retail business facilities in an  
30 area designated as a redevelopment project pursuant to title 36, chapter  
31 12, article 3 where the average household income is less than the average  
32 city household income as determined by the United States census bureau.

33           4. Incentives consisting of reimbursement for public infrastructure  
34 dedicated to and accepted and controlled upon completion of the project by  
35 the city or town, county, state or a private utility where no other  
36 political subdivision provides such utility for transportation, water,  
37 sewer, electrical, drainage, the fair market value of real property  
38 necessary for the public infrastructure and other necessary public  
39 infrastructure. This paragraph does not apply to parking lots, parking  
40 structures or parking facilities or other structures or amenities owned or  
41 controlled by a private entity.

42           5. Incentives that are offered for the purpose of preserving  
43 historical buildings and other structures.

44           6. Incentives that are offered for cleanup or other remediation  
45 activities at a brownfields site under title 49, chapter 2, article 1.1 or



1 the comprehensive environmental response, compensation, and liability act  
2 of 1980 (P.L. 96-510, 94 Stat. 2767; 42 United States Code sections 9601  
3 through 9657), commonly known as "superfund".

4 E. To qualify as exempt from the penalty, an incentive under  
5 subsection D of this section that is offered in exchange for expenses  
6 incurred by the business entity must be in the form of a reimbursement of  
7 the expenses and may not exceed or otherwise be disproportional to the  
8 actual cost incurred.

9 F. This section does not apply to tax incentives that were referred  
10 to a vote of the qualified electors of the city or town before July 1,  
11 2007 and approved by the qualified electors of the city or town.

12 G. For the purposes of this section:

13 1. "Metropolitan statistical area" means a geographical area  
14 consisting of cities, towns and other populated areas defined for federal  
15 statistical and census purposes by the United States office of management  
16 and budget with technical assistance from the United States bureau of the  
17 census.

18 2. "Retail business facility" means a store, warehouse or other  
19 improvement to real estate where at least one-half of the business  
20 conducted on the premises consists of retail sales of tangible personal  
21 property to the ultimate consumer, measured by either the number of  
22 employees assigned to retail sales or the square footage of the facility  
23 used for retail sales. For the purposes of this paragraph, retail sales  
24 do not include:

25 (a) Sales of food and beverage for consumption on the premises of  
26 the facility.

27 (b) The distribution without charge of promotional products that  
28 display the company logo or trademark.

29 (c) Sales solely to company employees.

30 3. "Tax incentive" means any waiver, exemption, deduction, credit,  
31 rebate, discount, deferral or other abatement or reduction of the normal  
32 municipal tax liability of an individual taxpayer that otherwise applies  
33 to similar existing taxpayers and properties in the city or town, however  
34 denominated, computed or applied, and generally understood as an  
35 inducement for the taxpayer to locate a business facility or other  
36 operation in the city or town.

37 Sec. 59. Section 42-6102, Arizona Revised Statutes, is amended to  
38 read:

39 42-6102. Administration; exception

40 A. Unless the context otherwise requires, chapter 5, article 1 of  
41 this title governs the administration of the taxes imposed by this  
42 article, except that:

43 1. A separate license is not required for the taxes imposed by this  
44 article, and the taxes due under this article shall be included, reported  
45 and paid with the transaction privilege tax.

2. A separate bond is not required of employees of the department in administering this article.

3. The taxes imposed by this article may be included without segregation in any notice and lien filed for unpaid transaction privilege taxes.

B. The taxes imposed pursuant to this article do not apply to the gross proceeds of sales or gross income derived pursuant to:

1. Contracts entered into before the date of the election to authorize the tax by prime contractors ~~and owner builders~~ who are classified under ~~sections~~ SECTION 42-5075 ~~and 42-5076~~ unless the contract contains a provision which entitles the contractor to recover the amount of the tax from a purchaser. In order to qualify for this exemption the contractor shall provide sufficient documentation, in a manner and form prescribed by the department, to verify that a contract was entered into before the date of the election to authorize the tax.

2. SALES OF MOTOR VEHICLE FUEL BY A PERSON WHO IS SUBJECT TO TAX UNDER THE RETAIL MOTOR VEHICLE FUEL CLASSIFICATION UNDER SECTION 42-5077.

Sec. 60. Section 49-1031, Arizona Revised Statutes, is amended to read:

49-1031. Imposition of tax; definition

A. From and after July 1, 1990, there is imposed and the director shall collect an excise tax on the operation of underground storage tanks regulated under this chapter measured by the quantity of regulated substances placed in a tank in any calendar year. The tax is levied at the rate of one cent per gallon of regulated substance.

B. For proper administration of this article, and to prevent the evasion of the tax imposed by this article, it shall be presumed until the contrary is established by competent proof under rules and procedures adopted by the director that all regulated substances that are motor vehicle fuel as defined in section 28-101, aviation fuel as defined in section 28-101 and diesel ~~as defined in section 28-6001, subsection B~~ and that are refined, manufactured, produced, compounded or blended in this state, or imported into this state, will be placed in an underground storage tank from which the fuel is dispensed to users who consume the fuel and do not further distribute it. Under this presumption, the owner and operator of an underground storage tank from which motor vehicle fuel, aviation fuel or diesel is dispensed and from which no further bulk distribution will be made, shall be considered to have paid the tax collected under title 28, chapter 16, article 6.

C. The tax imposed by this article does not apply to underground storage tanks operated by the United States or this state or agencies of the United States or this state or to any of the following substances placed in underground storage tanks:

1. Naphtha-type jet fuel or kerosene-type jet fuel.

1           2. Regulated substances as defined in section 49-1001, paragraph  
2 16, subdivision (b), unless such regulated substances were placed in an  
3 underground storage tank prior to July 1, 1997, and the owner or operator  
4 of the underground storage tank has paid prior to July 1, 1997 all taxes  
5 imposed by this article applicable to such regulated substances. If the  
6 owner or operator has paid those taxes, the owner or operator may elect to  
7 continue to pay the tax imposed by this article regarding such regulated  
8 substances.

9           D. The owner and operator of an underground storage tank regulated  
10 under this chapter are jointly and severally liable for the tax, but the  
11 owner and operator may agree between themselves and file a notarized  
12 affidavit with the director designating either the owner or operator as  
13 primarily responsible for the tax under this article.

14           E. Any person who purchases motor vehicle fuel as defined in  
15 section 28-101, aviation fuel as defined in section 28-101, or diesel ~~as~~  
16 ~~defined in section 28-6001, subsection B~~ for which the tax imposed by this  
17 section has been paid and which fuel has been placed in a tank which is  
18 not subject to the underground storage tank tax imposed by this section  
19 and from which no further bulk distribution of the fuel will be made, may  
20 claim a refund of the tax levied. Refunds shall be submitted on forms  
21 prescribed by the director and shall be supported by substantiation for  
22 the amount of the tax paid.

23           F. Any person eligible to claim a refund of the tax imposed by this  
24 section, including an assignee of a refund claim, may assign such claim to  
25 the person from whom the fuel was purchased, and the assignee of the claim  
26 may claim the refund allowed under subsection E of this section provided  
27 that the assignor of the claim certifies in writing to the assignee, on  
28 forms prescribed by the director, that the assignor relinquishes all  
29 interest in the refund and shall not also claim a refund from the  
30 director.

31           G. If a refund claim is assigned to a person who is required to  
32 make payments under title 28, chapter 16, article 6, the refund shall be  
33 taken into account in the manner provided in section 28-6005.

34           H. The director shall adopt temporary and permanent rules for  
35 administering the tax imposed by this article and specifying the forms of  
36 the return and of the certification provided for in sections 28-6003 and  
37 28-6004. The temporary and permanent rules shall prescribe the forms for  
38 and manner in which refunds may be claimed and refund claims assigned  
39 pursuant to subsection F of this section, shall specify the circumstances  
40 in which fuel may be excluded from the quantity of fuel used to measure  
41 the tax pursuant to title 28, chapter 16, article 6, and shall prescribe  
42 the forms for and manner which the certification provided in title 28,  
43 chapter 16, article 6 shall be made.

1 I. Title 41, chapter 6 shall not apply to the temporary rules  
2 adopted pursuant to this section. The temporary rules shall be filed with  
3 the secretary of state and shall be effective for a period of one hundred  
4 eighty days after the date of filing with the secretary of state. The  
5 temporary rules may be renewed twice in the same manner as they were  
6 adopted, may be amended at the time or times they are renewed, and shall  
7 be effective for a period of one hundred eighty days after the date the  
8 renewed temporary rules are filed with the secretary of state.

9 J. The permanent rules adopted pursuant to this section shall be  
10 adopted as provided in title 41, chapter 6.

11 K. FOR THE PURPOSES OF THIS SECTION, "DIESEL" MEANS ANY LIQUID THAT  
12 IS COMMONLY OR COMMERCIALY KNOWN, OFFERED FOR SALE OR USED AS A FUEL IN  
13 DIESEL ENGINES.

14 Sec. 61. Conforming legislation

15 The legislative council staff shall prepare proposed legislation  
16 conforming the Arizona Revised Statutes to the provisions of this act for  
17 consideration in the Fifty-fourth legislature, first regular session.

18 Sec. 62. Effective date

19 This act is effective from and after December 31, 2018.