

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

# SENATE BILL 1465

## AN ACT

AMENDING SECTION 28-5611, ARIZONA REVISED STATUTES; REPEALING TITLE 28, CHAPTER 22, ARIZONA REVISED STATUTES; AMENDING TITLE 28, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 22; AMENDING SECTIONS 35-701, 42-5069 AND 42-6208, ARIZONA REVISED STATUTES; RELATING TO INNOVATIVE PARTNERSHIPS PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-5611, Arizona Revised Statutes, is amended to  
3 read:

4 28-5611. Refunds: motor vehicle fuel

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

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

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

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

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

14 2. Buys aviation fuel for use in aircraft applying seeds, fertilizer  
15 or pesticides.

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

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

21 Sec. 2. Repeal

22 Title 28, chapter 22, Arizona Revised Statutes, is repealed.

23 Sec. 3. Title 28, Arizona Revised Statutes, is amended by adding a new  
24 chapter 22, to read:

25 CHAPTER 22

26 INNOVATIVE PARTNERSHIPS PROGRAM

27 ARTICLE 1. GENERAL PROVISIONS

28 28-7701. Definitions

29 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

30 1. "AGREEMENT" MEANS A WRITTEN AGREEMENT, INCLUDING A CONTRACT FOR A  
31 TRANSPORTATION PROJECT THAT IS ENTERED INTO UNDER SECTION 28-7703.

32 2. "PRIVATE ENTITY" MEANS ANY ENTITY THAT IS NOT A UNIT OF GOVERNMENT,  
33 INCLUDING A CORPORATION, PARTNERSHIP, COMPANY, NONPROFIT ORGANIZATION OR  
34 OTHER LEGAL ENTITY, OR A NATURAL PERSON.

35 3. "TRANSPORTATION PROJECT" MEANS ANY PROPOSED OR EXISTING UNDERTAKING  
36 THAT FACILITATES ANY MODE OF TRANSPORTATION IN THIS STATE.

37 4. "UNIT OF GOVERNMENT" MEANS ANY DEPARTMENT OR AGENCY OF THE FEDERAL  
38 GOVERNMENT, ANY STATE OR ANY AGENCY, OFFICE OR DEPARTMENT OF A STATE, ANY  
39 CITY, COUNTY, DISTRICT, COMMISSION, AUTHORITY, ENTITY, PORT OR OTHER PUBLIC  
40 CORPORATION ORGANIZED AND EXISTING UNDER STATUTORY LAW OR UNDER A VOTER  
41 APPROVED CHARTER AND ANY INTERGOVERNMENTAL ENTITY.

42 28-7702. Innovative partnerships program; goals; authority of  
43 department; confidentiality; expenses

44 A. THE DEPARTMENT SHALL ESTABLISH THE INNOVATIVE PARTNERSHIPS PROGRAM  
45 FOR THE PLANNING, ACQUISITION, FINANCING, DEVELOPMENT, DESIGN, CONSTRUCTION,

1 RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, MAINTENANCE, MANAGEMENT, REPAIR,  
2 LEASING AND OPERATION OF TRANSPORTATION PROJECTS. THE GOALS OF THE PROGRAM  
3 ARE TO:

4 1. DEVELOP AN EXPEDITED TRANSPORTATION PROJECT DELIVERY PROCESS.

5 2. MAXIMIZE INNOVATION.

6 3. DEVELOP PARTNERSHIPS WITH PRIVATE ENTITIES AND UNITS OF GOVERNMENT.

7 B. AS PART OF THE PROGRAM ESTABLISHED UNDER THIS CHAPTER, THE  
8 DEPARTMENT MAY:

9 1. SOLICIT CONCEPTS OR PROPOSALS FOR TRANSPORTATION PROJECTS FROM  
10 PRIVATE ENTITIES AND UNITS OF GOVERNMENT.

11 2. ACCEPT UNSOLICITED CONCEPTS OR PROPOSALS FOR TRANSPORTATION  
12 PROJECTS FROM PRIVATE ENTITIES AND UNITS OF GOVERNMENT.

13 3. EVALUATE THE CONCEPTS OR PROPOSALS RECEIVED UNDER THIS SUBSECTION  
14 AND SELECT POTENTIAL TRANSPORTATION PROJECTS BASED ON THE CONCEPTS OR  
15 PROPOSALS. THE EVALUATION UNDER THIS PARAGRAPH SHALL INCLUDE CONSULTATION  
16 WITH ANY APPROPRIATE LOCAL GOVERNMENT OR METROPOLITAN PLANNING ORGANIZATION.

17 4. CHARGE AN ADMINISTRATIVE FEE FOR THE EVALUATION IN AN AMOUNT  
18 DETERMINED BY THE DEPARTMENT.

19 C. FOLLOWING AN EVALUATION BY THE DEPARTMENT OF CONCEPTS OR PROPOSALS  
20 SUBMITTED UNDER SUBSECTION B OF THIS SECTION, AND THE SELECTION OF POTENTIAL  
21 TRANSPORTATION PROJECTS, THE DEPARTMENT MAY NEGOTIATE AND ENTER INTO THE  
22 AGREEMENTS DESCRIBED IN SECTION 28-7703 FOR IMPLEMENTING THE SELECTED  
23 TRANSPORTATION PROJECTS.

24 D. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, INFORMATION  
25 RELATED TO A TRANSPORTATION PROJECT PROPOSED UNDER THIS CHAPTER, INCLUDING  
26 THE TRANSPORTATION PROJECT'S DESIGN, MANAGEMENT, FINANCING AND OTHER DETAILS,  
27 IS EXEMPT FROM DISCLOSURE UNTIL EITHER:

28 1. THE DEPARTMENT SHARES THE INFORMATION WITH A LOCAL GOVERNMENT OR  
29 METROPOLITAN PLANNING ORGANIZATION PURSUANT TO SUBSECTION B OF THIS SECTION.

30 2. THE DEPARTMENT COMPLETES ITS EVALUATION OF THE PROPOSED PROJECT AND  
31 SELECTS THE PROPOSAL FOR NEGOTIATION OF AN AGREEMENT.

32 E. AFTER THE DEPARTMENT HAS EITHER SHARED THE INFORMATION DESCRIBED IN  
33 SUBSECTION D OF THIS SECTION WITH A LOCAL GOVERNMENT OR METROPOLITAN PLANNING  
34 ORGANIZATION OR HAS COMPLETED ITS EVALUATION OF THE PROPOSED TRANSPORTATION  
35 PROJECT, THE INFORMATION IS SUBJECT TO DISCLOSURE.

36 F. SENSITIVE BUSINESS, COMMERCIAL OR FINANCIAL INFORMATION THAT IS NOT  
37 CUSTOMARILY PROVIDED TO BUSINESS COMPETITORS AND THAT IS SUBMITTED TO THE  
38 DEPARTMENT IN CONNECTION WITH A TRANSPORTATION PROJECT UNDER THIS CHAPTER IS  
39 EXEMPT FROM DISCLOSURE UNTIL THE INFORMATION IS SUBMITTED TO THE DEPARTMENT  
40 IN CONNECTION WITH ITS REVIEW AND APPROVAL OF THE TRANSPORTATION PROJECT  
41 UNDER SECTION 28-7703.

42 G. IN CONNECTION WITH THE EVALUATION OF CONCEPTS OR PROPOSALS FOR  
43 TRANSPORTATION PROJECTS, THE DEPARTMENT MAY CONSIDER ANY FINANCING  
44 MECHANISMS, INCLUDING THE IMPOSITION AND COLLECTION OF FRANCHISE FEES OR USER  
45 FEES AND THE DEVELOPMENT OR USE OF OTHER REVENUE SOURCES.

1 H. THE DEPARTMENT AND ANY OTHER UNIT OF GOVERNMENT MAY SPEND, OUT OF  
2 ANY MONIES AVAILABLE FOR THE PURPOSE, SUCH MONIES AS MAY BE NECESSARY FOR THE  
3 EVALUATION OF CONCEPTS OR PROPOSALS FOR TRANSPORTATION PROJECTS AND FOR  
4 NEGOTIATING AGREEMENTS FOR TRANSPORTATION PROJECTS UNDER SECTION 28-7703.  
5 THE DEPARTMENT OR OTHER UNIT OF GOVERNMENT MAY EMPLOY ENGINEERS, CONSULTANTS  
6 OR OTHER EXPERTS THE DEPARTMENT OR OTHER UNIT OF GOVERNMENT DETERMINES ARE  
7 NEEDED FOR THE PURPOSES OF DOING THE EVALUATION AND NEGOTIATION. EXPENSES  
8 INCURRED BY THE DEPARTMENT OR OTHER UNIT OF GOVERNMENT UNDER THIS SUBSECTION  
9 BEFORE THE ISSUANCE OF TRANSPORTATION PROJECT REVENUE BONDS OR OTHER  
10 FINANCING SHALL BE PAID BY THE DEPARTMENT OR OTHER UNIT OF GOVERNMENT, AS  
11 APPLICABLE, AND CHARGED TO THE APPROPRIATE TRANSPORTATION PROJECT. THE  
12 DEPARTMENT OR OTHER UNIT OF GOVERNMENT SHALL KEEP RECORDS AND ACCOUNTS  
13 SHOWING EACH AMOUNT CHARGED. ON THE SALE OF TRANSPORTATION PROJECT REVENUE  
14 BONDS OR ON OBTAINING OTHER FINANCING FOR ANY TRANSPORTATION PROJECT, THE  
15 MONIES SPENT BY THE DEPARTMENT OR OTHER UNIT OF GOVERNMENT UNDER THIS  
16 SUBSECTION IN CONNECTION WITH THE PROJECT SHALL BE REPAID TO THE DEPARTMENT  
17 OR THE UNIT OF GOVERNMENT FROM THE PROCEEDS OF THE BONDS OR OTHER FINANCING,  
18 AS ALLOWED BY APPLICABLE LAW.

19 28-7703. Agreements; definition

20 A. THE DEPARTMENT OF TRANSPORTATION MAY:

21 1. ENTER INTO ANY AGREEMENT OR ANY CONFIGURATION OF AGREEMENTS  
22 RELATING TO TRANSPORTATION PROJECTS WITH ANY PRIVATE ENTITY OR UNIT OF  
23 GOVERNMENT OR ANY CONFIGURATION OF PRIVATE ENTITIES AND UNITS OF GOVERNMENT.  
24 THE SUBJECT OF AGREEMENTS ENTERED INTO UNDER THIS SECTION MAY INCLUDE  
25 PLANNING, ACQUISITION, FINANCING, DEVELOPMENT, DESIGN, CONSTRUCTION,  
26 RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, MAINTENANCE, MANAGEMENT, REPAIR,  
27 LEASING AND OPERATION OF TRANSPORTATION PROJECTS.

28 2. INCLUDE IN ANY AGREEMENT ENTERED INTO UNDER THIS SECTION ANY  
29 FINANCING MECHANISMS, INCLUDING THE IMPOSITION AND COLLECTION OF FRANCHISE  
30 FEES OR USER FEES AND THE DEVELOPMENT OR USE OF OTHER REVENUE SOURCES.

31 B. THE AGREEMENTS AMONG THE PUBLIC AND PRIVATE SECTOR PARTNERS ENTERED  
32 INTO UNDER THIS SECTION MUST SPECIFY AT LEAST THE FOLLOWING:

33 1. AT WHAT POINT IN THE TRANSPORTATION PROJECT PUBLIC AND PRIVATE  
34 SECTOR PARTNERS WILL ENTER THE TRANSPORTATION PROJECT AND WHICH PARTNERS WILL  
35 ASSUME RESPONSIBILITY FOR SPECIFIC TRANSPORTATION PROJECT ELEMENTS.

36 2. HOW THE PARTNERS WILL SHARE MANAGEMENT OF THE RISKS OF THE  
37 TRANSPORTATION PROJECT.

38 3. HOW THE PARTNERS WILL SHARE THE COSTS OF DEVELOPMENT OF THE  
39 TRANSPORTATION PROJECT.

40 4. HOW THE PARTNERS WILL ALLOCATE FINANCIAL RESPONSIBILITY FOR COST  
41 OVERRUNS.

42 5. THE PENALTIES FOR NONPERFORMANCE.

43 6. THE INCENTIVES FOR PERFORMANCE.

44 7. THE ACCOUNTING AND AUDITING STANDARDS TO BE USED TO EVALUATE WORK  
45 ON THE TRANSPORTATION PROJECT.

1           8. WHETHER THE TRANSPORTATION PROJECT IS CONSISTENT WITH THE FIVE YEAR  
2 TRANSPORTATION FACILITIES CONSTRUCTION PROGRAM DEVELOPED BY THE DIRECTOR  
3 PURSUANT TO SECTION 28-6951 AND ANY APPLICABLE REGIONAL TRANSPORTATION PLANS  
4 OR LOCAL TRANSPORTATION SYSTEM PROGRAMS AND, IF NOT CONSISTENT, HOW AND WHEN  
5 THE TRANSPORTATION PROJECT WILL BECOME CONSISTENT WITH APPLICABLE PLANS AND  
6 PROGRAMS.

7           C. EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER UNIT OF  
8 GOVERNMENT, THE DEPARTMENT MAY ENTER INTO WORKING AGREEMENTS, COORDINATION  
9 AGREEMENTS OR SIMILAR IMPLEMENTATION AGREEMENTS TO CARRY OUT THE JOINT  
10 IMPLEMENTATION OF ANY TRANSPORTATION PROJECT SELECTED UNDER SECTION 28-7702.

11           D. SECTION 28-6923 DOES NOT APPLY TO CONCEPTS OR PROPOSALS SUBMITTED  
12 UNDER SECTION 28-7702 OR TO AGREEMENTS ENTERED INTO UNDER THIS SECTION.

13           E. THE DEPARTMENT MAY NOT ENTER INTO AN AGREEMENT UNDER THIS SECTION  
14 UNTIL THE AGREEMENT IS REVIEWED AND APPROVED BY THE BOARD.

15           F. THE DEPARTMENT MAY NOT ENTER INTO, AND THE BOARD MAY NOT APPROVE,  
16 AN AGREEMENT UNDER THIS SECTION FOR THE CONSTRUCTION OF A PUBLIC IMPROVEMENT  
17 AS PART OF A TRANSPORTATION PROJECT UNLESS THE AGREEMENT PROVIDES FOR  
18 BONDING, FINANCIAL GUARANTEES, DEPOSITS OR THE POSTING OF OTHER SECURITY TO  
19 SECURE THE PAYMENT OF LABORERS, SUBCONTRACTORS AND SUPPLIERS THAT PERFORM  
20 WORK OR PROVIDE MATERIALS AS PART OF THE TRANSPORTATION PROJECT.

21           G. BEFORE PRESENTING AN AGREEMENT TO THE BOARD FOR APPROVAL UNDER THIS  
22 SECTION, THE DEPARTMENT MUST CONSIDER WHETHER TO IMPLEMENT PROCEDURES TO  
23 PROMOTE COMPETITION AMONG SUBCONTRACTORS FOR ANY SUBCONTRACTS TO BE LET IN  
24 CONNECTION WITH THE TRANSPORTATION PROJECT. AS PART OF ITS REQUEST FOR  
25 APPROVAL OF THE AGREEMENT, THE DEPARTMENT SHALL REPORT IN WRITING TO THE  
26 BOARD ITS CONCLUSIONS REGARDING THE APPROPRIATENESS OF IMPLEMENTING THOSE  
27 PROCEDURES.

28           H. EXCEPT AS PROVIDED IN SUBSECTION I OF THIS SECTION, DOCUMENTS,  
29 COMMUNICATIONS AND INFORMATION DEVELOPED, EXCHANGED OR COMPILED IN THE COURSE  
30 OF NEGOTIATING AN AGREEMENT WITH A PRIVATE ENTITY UNDER THIS SECTION ARE  
31 EXEMPT FROM DISCLOSURE.

32           I. THE DOCUMENTS, COMMUNICATIONS OR INFORMATION DESCRIBED IN  
33 SUBSECTION H OF THIS SECTION ARE SUBJECT TO DISCLOSURE WHEN THE DOCUMENTS,  
34 COMMUNICATIONS OR INFORMATION ARE SUBMITTED TO THE BOARD IN CONNECTION WITH  
35 ITS REVIEW AND APPROVAL OF A TRANSPORTATION PROJECT UNDER SUBSECTION F OF  
36 THIS SECTION.

37           J. THE TERMS OF A FINAL AGREEMENT ENTERED INTO UNDER THIS SECTION AND  
38 THE TERMS OF A PROPOSED AGREEMENT PRESENTED TO THE BOARD FOR REVIEW AND  
39 APPROVAL UNDER SUBSECTION F OF THIS SECTION ARE SUBJECT TO DISCLOSURE.

40           K. FOR THE PURPOSES OF THIS SECTION, "PUBLIC IMPROVEMENT":

41           1. MEANS A TRANSPORTATION PROJECT FOR CONSTRUCTION, RECONSTRUCTION OR  
42 MAJOR RENOVATION ON REAL PROPERTY BY OR FOR A CONTRACTING AGENCY.

43           2. DOES NOT INCLUDE:

1 (a) TRANSPORTATION PROJECTS FOR WHICH NO FUNDS OF A CONTRACTING AGENCY  
2 ARE DIRECTLY OR INDIRECTLY USED EXCEPT FOR PARTICIPATION THAT IS INCIDENTAL  
3 OR RELATED PRIMARILY TO TRANSPORTATION PROJECT DESIGN OR INSPECTION.

4 (b) EMERGENCY WORK, MINOR ALTERATION, ORDINARY REPAIR OR MAINTENANCE  
5 NECESSARY TO PRESERVE A PUBLIC IMPROVEMENT.

6 28-7704. Evaluation of proposed agreements: role of attorney  
7 general

8 A. AT THE REQUEST OF THE DEPARTMENT, THE ATTORNEY GENERAL MAY APPOINT  
9 SPECIAL ASSISTANT ATTORNEYS GENERAL FOR THE PURPOSE OF EVALUATING PARTNERSHIP  
10 AGREEMENTS ENTERED INTO OR TO BE ENTERED INTO AS PART OF THE PROGRAM  
11 ESTABLISHED UNDER THIS CHAPTER. THE SPECIAL ASSISTANT ATTORNEYS GENERAL  
12 SHALL BE UNDER THE DIRECTION AND CONTROL OF THE ATTORNEY GENERAL AND MAY:

13 1. ADVISE THE DEPARTMENT CONCERNING THE LEGALITY OF SPECIFIC PROPOSED  
14 PARTNERSHIPS.

15 2. ADVISE THE DEPARTMENT ON LEGAL PROCEDURES AND PRACTICES RELATED TO  
16 IMPLEMENTATION OF SPECIFIC TRANSPORTATION PROJECTS THAT USE A PARTNERSHIP.

17 3. ASSIST THE DEPARTMENT IN NEGOTIATING PARTNERSHIP AGREEMENTS.

18 4. ASSIST THE DEPARTMENT IN PREPARING ANY DOCUMENT RELATED TO A  
19 SPECIFIC PARTNERSHIP.

20 5. ADVISE THE DEPARTMENT REGARDING ACCOUNTING, INVESTMENT AND TAX  
21 REQUIREMENTS APPLICABLE TO SPECIFIC TRANSPORTATION PROJECTS THAT USE A  
22 PARTNERSHIP.

23 6. ADVISE THE DEPARTMENT REGARDING ANY RELEVANT FEDERAL SECURITIES OR  
24 OTHER LAWS AND RELATED DISCLOSURE REQUIREMENTS.

25 B. THE ATTORNEY GENERAL SHALL REVIEW EACH AGREEMENT ENTERED INTO UNDER  
26 SECTION 28-7703. AS PART OF THE REVIEW THE ATTORNEY GENERAL SHALL:

27 1. RECOGNIZE THAT THE AGREEMENT IS THE PRODUCT OF A PARTNERSHIP.

28 2. DEFER TO THE BUSINESS JUDGMENT OF THE DEPARTMENT AND THE BOARD  
29 CONCERNING THE ASSIGNMENT OF RISKS AND THE INCENTIVES PROVIDED IN THE  
30 AGREEMENT.

31 28-7705. State transportation enterprise fund

32 A. THE STATE TRANSPORTATION ENTERPRISE FUND IS ESTABLISHED. ON NOTICE  
33 FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN  
34 THE FUND AS PROVIDED BY SECTION 35-313 AND MONIES EARNED FROM INVESTMENT  
35 SHALL BE CREDITED TO THE FUND. THE DEPARTMENT SHALL ADMINISTER THE FUND.  
36 THE FOLLOWING MONIES SHALL BE DEPOSITED IN THE STATE TRANSPORTATION  
37 ENTERPRISE FUND:

38 1. PROCEEDS FROM BONDS OR OTHER FINANCING INSTRUMENTS ISSUED UNDER  
39 THIS CHAPTER.

40 2. REVENUES RECEIVED FROM ANY TRANSPORTATION PROJECT DEVELOPED UNDER  
41 THIS CHAPTER.

42 3. ANY OTHER MONIES THAT ARE BY DONATION, GRANT, CONTRACT, LAW OR  
43 OTHER MEANS TRANSFERRED, ALLOCATED OR APPROPRIATED TO THE FUND.

44 B. MONIES IN THE STATE TRANSPORTATION ENTERPRISE FUND ARE CONTINUOUSLY  
45 APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSE OF CARRYING OUT THIS CHAPTER

1 AND IMPLEMENTING ALL OR PORTIONS OF ANY TRANSPORTATION PROJECT DEVELOPED  
2 UNDER THE PROGRAM ESTABLISHED UNDER THIS CHAPTER.

3 C. THE DEPARTMENT SHALL ESTABLISH A SEPARATE ACCOUNT IN THE STATE  
4 TRANSPORTATION ENTERPRISE FUND FOR EACH TRANSPORTATION PROJECT THAT IS  
5 UNDERTAKEN PURSUANT TO THIS CHAPTER. THE DEPARTMENT MAY PLEDGE MONIES IN THE  
6 STATE TRANSPORTATION ENTERPRISE FUND TO SECURE REVENUE BONDS OR ANY OTHER  
7 DEBT OBLIGATIONS RELATING TO THE TRANSPORTATION PROJECT FOR WHICH THE ACCOUNT  
8 IS ESTABLISHED.

9 D. MONIES IN AN ACCOUNT ESTABLISHED UNDER SUBSECTION C SHALL BE USED  
10 AS PROVIDED IN ANY AGREEMENT APPLICABLE TO THE TRANSPORTATION PROJECT FOR  
11 WHICH THE ACCOUNT IS ESTABLISHED.

12 28-7706. Eminent domain powers

13 A. THE DEPARTMENT MAY EXERCISE THE POWER OF EMINENT DOMAIN TO ACQUIRE  
14 PROPERTY, RIGHTS-OF-WAY OR OTHER RIGHTS IN PROPERTY FOR TRANSPORTATION  
15 PROJECTS THAT ARE PART OF THE PROGRAM ESTABLISHED UNDER THIS CHAPTER,  
16 REGARDLESS OF WHETHER THE PROPERTY WILL BE OWNED IN FEE SIMPLE BY THE  
17 DEPARTMENT.

18 B. PROPERTY THAT IS ACQUIRED BY THE DEPARTMENT THROUGH THE USE OF  
19 EMINENT DOMAIN AND THAT IS NOT USED FOR PROGRAM TRANSPORTATION PROJECTS MUST  
20 BE OFFERED FOR PURCHASE FIRST TO THE PREVIOUS LANDOWNER BEFORE THE DEPARTMENT  
21 DISPOSES OF THE PROPERTY IN ANY MANNER.

22 28-7707. Advisory committees on transportation projects; rules

23 A. THE DEPARTMENT AND ANY UNIT OF GOVERNMENT THAT PARTICIPATES IN A  
24 TRANSPORTATION PROJECT MAY ESTABLISH ADVISORY COMMITTEES TO ADVISE THE  
25 DEPARTMENT OR THE UNIT OF GOVERNMENT WITH RESPECT TO TRANSPORTATION PROJECTS.  
26 AN ADVISORY COMMITTEE SHALL CONSIST OF NOT FEWER THAN FIVE AND NOT MORE THAN  
27 NINE MEMBERS, AS DETERMINED BY THE DEPARTMENT. MEMBERS SHALL BE APPOINTED BY  
28 THE DEPARTMENT OR IN A MANNER AGREED TO BY THE DEPARTMENT AND ANY  
29 PARTICIPATING UNIT OF GOVERNMENT.

30 B. AT THE REQUEST OF THE DEPARTMENT, AN ADVISORY COMMITTEE MAY REVIEW  
31 CONCEPTS OR PROPOSALS FOR TRANSPORTATION PROJECTS AND SUBMIT RECOMMENDATIONS  
32 TO THE DEPARTMENT OR THE PARTICIPATING UNIT OF GOVERNMENT.

33 C. AN ADVISORY COMMITTEE SHALL MEET AS NECESSARY AT TIMES AND PLACES  
34 FIXED BY THE DEPARTMENT OR THE PARTICIPATING UNIT OF GOVERNMENT. THE  
35 DEPARTMENT SHALL PROVIDE PERSONNEL SERVICES TO ASSIST THE ADVISORY COMMITTEE  
36 WITHIN THE LIMITS OF AVAILABLE MONIES. AN ADVISORY COMMITTEE MAY ADOPT RULES  
37 TO GOVERN ITS PROCEEDINGS AND MAY SELECT OFFICERS.

38 28-7708. Rules; supremacy of federal law

39 A. THE DEPARTMENT MAY ADOPT ANY RULES IT CONSIDERS NECESSARY TO  
40 IMPLEMENT THIS CHAPTER.

41 B. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, APPLICABLE FEDERAL  
42 LAWS, RULES AND REGULATIONS GOVERN IN ANY SITUATION THAT INVOLVES FEDERAL  
43 MONIES IF THE FEDERAL LAWS, RULES OR REGULATIONS:

44 1. CONFLICT WITH ANY PROVISION OF THIS CHAPTER.

1           2. REQUIRE PROCEDURES THAT ARE ADDITIONAL TO OR DIFFERENT FROM THOSE  
2 PROVIDED IN THIS CHAPTER.

3           3. REQUIRE CONTRACT PROVISIONS NOT AUTHORIZED BY THIS CHAPTER.

4           28-7709. Reports to board

5           A. THE DEPARTMENT SHALL REPORT TO THE BOARD AT LEAST TWICE DURING EACH  
6 YEAR REGARDING THE TRANSPORTATION PROJECTS PROPOSED OR AGREED TO UNDER THIS  
7 CHAPTER.

8           B. THE REPORT UNDER SUBSECTION A SHALL INCLUDE INFORMATION ABOUT  
9 EXPENDITURE OF MONIES FOR EVALUATION OF CONCEPTS AND PROPOSALS FOR  
10 TRANSPORTATION PROJECTS, AGREEMENTS ENTERED INTO, TRANSPORTATION PROJECTS  
11 THAT HAVE BEEN AGREED TO AND FINANCING MECHANISMS BEING USED FOR  
12 TRANSPORTATION PROJECTS.

13           28-7710. Program termination; contracts

14           THE PROGRAM ESTABLISHED UNDER THIS CHAPTER ENDS JULY 1, 2018 PURSUANT  
15 TO SECTION 41-3102. ANY CONTRACT ENTERED INTO FOR THE PURPOSES OF THE  
16 PROGRAM SHALL REMAIN IN EFFECT FOR THE DURATION OF THE CONTRACT REGARDLESS OF  
17 WHEN THE PROGRAM TERMINATES.

18                                   ARTICLE 2. FINANCING

19           28-7741. Bonds secured by state transportation enterprise fund;  
20 financing of transportation projects

21           A. IN ADDITION TO ANY AUTHORITY THE DEPARTMENT HAS TO ISSUE AND SELL  
22 BONDS AND OTHER SIMILAR OBLIGATIONS, THIS SECTION ESTABLISHES CONTINUING  
23 AUTHORITY FOR THE ISSUANCE AND SALE OF BONDS AND OTHER SIMILAR OBLIGATIONS IN  
24 A MANNER CONSISTENT WITH THIS SECTION. TO FINANCE ANY TRANSPORTATION PROJECT  
25 IN WHOLE OR IN PART, THE DEPARTMENT MAY ISSUE REVENUE BONDS. THE BONDS SHALL  
26 BE SECURED BY A PLEDGE OF, AND A LIEN ON, AND SHALL BE PAYABLE ONLY FROM,  
27 MONIES IN THE STATE TRANSPORTATION ENTERPRISE FUND ESTABLISHED BY SECTION  
28 28-7705 AND ANY OTHER REVENUES SPECIFICALLY PLEDGED TO REPAYMENT OF THE  
29 BONDS. A PLEDGE BY THE DEPARTMENT OF ITS REVENUES CREATES A LIEN THAT IS  
30 VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE. REVENUE BONDS ISSUED  
31 PURSUANT TO THIS SECTION ARE NOT GENERAL OBLIGATIONS OF THIS STATE AND ARE  
32 NOT SECURED BY OR PAYABLE FROM ANY MONIES OR ASSETS OF THIS STATE OTHER THAN  
33 THE MONIES AND REVENUES SPECIFICALLY PLEDGED TO THE REPAYMENT OF THE REVENUE  
34 BONDS.

35           B. MONIES RECEIVED FROM THE ISSUANCE OF REVENUE BONDS OR OTHER DEBT  
36 OBLIGATIONS, INCLUDING ANY INVESTMENT EARNINGS, MAY BE SPENT:

37           1. FOR THE PURPOSE OF FINANCING THE COSTS OF THE TRANSPORTATION  
38 PROJECT FOR WHICH THE BONDS ARE ISSUED.

39           2. TO PAY THE COSTS AND OTHER ADMINISTRATIVE EXPENSES OF THE BONDS.

40           3. TO PAY THE COSTS OF CREDIT ENHANCEMENT OR TO FUND ANY RESERVES  
41 DETERMINED TO BE NECESSARY OR ADVANTAGEOUS IN CONNECTION WITH THE REVENUE  
42 BONDS.

43           4. TO REIMBURSE THE DEPARTMENT FOR ANY COSTS RELATED TO CARRYING OUT  
44 THE PURPOSES OF THE PROGRAM ESTABLISHED UNDER THIS CHAPTER.



1 C. ANY TRANSPORTATION PROJECT MAY BE FINANCED IN WHOLE OR IN PART  
2 WITH:

3 1. THE PROCEEDS OF GRANT ANTICIPATION REVENUE BONDS AUTHORIZED BY 23  
4 UNITED STATES CODE SECTION 122 AND APPLICABLE STATE LAW.

5 2. GRANTS, LOANS, LOAN GUARANTEES, LINES OF CREDIT, REVOLVING LINES OF  
6 CREDIT OR OTHER FINANCING ARRANGEMENTS AVAILABLE PURSUANT TO 23 UNITED STATES  
7 CODE SECTIONS 601 THROUGH 610 OR ANY OTHER APPLICABLE FEDERAL LAW.

8 3. INFRASTRUCTURE LOANS OR ASSISTANCE FROM THE HIGHWAY EXPANSION AND  
9 EXTENSION LOAN PROGRAM FUND ESTABLISHED BY SECTION 28-7674.

10 4. PRIVATE ACTIVITY BONDS AS DESCRIBED BY 26 UNITED STATES CODE  
11 SECTION 141 AND OTHER FORMS OF PRIVATE CAPITAL.

12 D. AS SECURITY FOR THE PAYMENT OF FINANCING DESCRIBED IN SUBSECTION C  
13 OF THIS SECTION, THE REVENUES FROM THE TRANSPORTATION PROJECT MAY BE PLEDGED,  
14 BUT NO SUCH PLEDGE OF REVENUES CONSTITUTES IN ANY MANNER OR TO ANY EXTENT A  
15 GENERAL OBLIGATION OF THIS STATE. ANY FINANCING DESCRIBED IN SUBSECTION C OF  
16 THIS SECTION MAY BE STRUCTURED ON A SENIOR, PARITY OR SUBORDINATE BASIS TO  
17 ANY OTHER FINANCING.

18 28-7742. Monies from federal government or other sources

19 A. THE DEPARTMENT OR A UNIT OF GOVERNMENT MAY ACCEPT FROM THE UNITED  
20 STATES OR ANY OF ITS AGENCIES MONIES THAT ARE AVAILABLE TO THIS STATE OR TO  
21 THE UNIT OF GOVERNMENT FOR CARRYING OUT THE PURPOSES OF THIS CHAPTER, WHETHER  
22 THE MONIES ARE MADE AVAILABLE BY GRANT, LOAN OR OTHER FINANCING ARRANGEMENT.  
23 THE DEPARTMENT OR UNIT OF GOVERNMENT MAY ENTER INTO AGREEMENTS AND OTHER  
24 ARRANGEMENTS WITH THE UNITED STATES OR ANY OF ITS AGENCIES THAT ARE  
25 NECESSARY, PROPER AND CONVENIENT FOR CARRYING OUT THE PURPOSES OF THIS  
26 CHAPTER.

27 B. THE DEPARTMENT OR A UNIT OF GOVERNMENT MAY ACCEPT FROM ANY SOURCE  
28 ANY GRANT, DONATION, GIFT OR OTHER FORM OF CONVEYANCE OF LAND, MONIES, OTHER  
29 REAL OR PERSONAL PROPERTY OR OTHER VALUABLE THING MADE TO THIS STATE, THE  
30 DEPARTMENT OR THE UNIT OF GOVERNMENT FOR CARRYING OUT THE PURPOSES OF THIS  
31 CHAPTER.

32 C. ANY TRANSPORTATION PROJECT MAY BE FINANCED IN WHOLE OR IN PART BY  
33 THE CONTRIBUTION OF ANY MONIES OR PROPERTY MADE BY ANY PRIVATE ENTITY OR UNIT  
34 OF GOVERNMENT THAT IS A PARTY TO ANY AGREEMENT ENTERED INTO UNDER SECTION  
35 28-7703.

36 28-7743. Use of monies in highway expansion and extension loan  
37 program fund for projects

38 NOTWITHSTANDING CHAPTER 21, ARTICLE 5 OF THIS TITLE, THE DEPARTMENT MAY  
39 USE MONIES IN THE HIGHWAY EXPANSION AND EXTENSION LOAN PROGRAM FUND  
40 ESTABLISHED BY SECTION 28-7674 TO ENSURE THE REPAYMENT OF LOAN GUARANTEES OR  
41 EXTENSIONS OF CREDIT MADE TO OR ON BEHALF OF PRIVATE ENTITIES ENGAGED IN THE  
42 PLANNING, ACQUISITION, FINANCING, DEVELOPMENT, DESIGN, CONSTRUCTION,  
43 RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, MAINTENANCE, MANAGEMENT, REPAIR,  
44 LEASING OR OPERATION OF ANY TRANSPORTATION PROJECT THAT IS PART OF THE  
45 PROGRAM ESTABLISHED UNDER THIS CHAPTER.

1           Sec. 4. Section 35-701, Arizona Revised Statutes, is amended to read:

2           35-701. Definitions

3           In this chapter, unless the context otherwise requires:

4           1. "Corporation" means any corporation organized as an authority as  
5 provided in this chapter.

6           2. "Designated area" means any area of this state which is either  
7 designated pursuant to section 36-1479 as a slum or blighted area as defined  
8 in section 36-1471, designated by regulation as a pocket of poverty or a  
9 neighborhood strategy area by the United States department of housing and  
10 urban development pursuant to title I of the housing and community  
11 development act of 1977 (P.L. 95-128; 42 United States Code sections 5301  
12 through 5320), as amended, and the department of housing and urban  
13 development act (P.L. 89-174; 42 United States Code section 3535(d)) or  
14 designated by the United States department of housing and urban development  
15 as an empowerment or enterprise zone pursuant to the federal omnibus budget  
16 reconciliation act of 1993 (P.L. 103-66; 26 United States Code section  
17 1391(g)) or an area certified as an enterprise zone pursuant to section  
18 41-1524, subsection B.

19           3. "Governing body" means:

20           (a) The board or body in which the general legislative powers of the  
21 municipality or the county are vested.

22           (b) The Arizona board of regents with respect to a corporation formed  
23 with the permission of the Arizona board of regents.

24           4. "Income" means gross earnings from wages, salary, commissions,  
25 bonuses or tips from all jobs, net earnings from such person's or family's  
26 own nonfarm business, professional practice or partnership, and net earnings  
27 from such person's or family's own farm. Income includes income, other than  
28 earnings, that consists of amounts received from social security or railroad  
29 retirement, interest, dividends, veterans payments, pensions and other  
30 regular payments, public assistance or welfare payments, including aid for  
31 dependent children, old age assistance, general assistance and aid to the  
32 blind or totally disabled, but excluding separate payments for hospital or  
33 other medical care.

34           5. "Manufactured house" means a structure that is manufactured in a  
35 factory after June 15, 1976, that is delivered to a homesite in more than one  
36 section and that is placed on a permanent foundation. The dimensions of the  
37 completed house shall not be less than twenty feet by forty feet, the roof  
38 must be sloping, the siding and roofing must be the same as those found in  
39 site-built houses and the house must be eligible for thirty year real estate  
40 mortgage financing.

41           6. "Municipality" or "county" means the Arizona board of regents or  
42 any incorporated city or town, including charter cities, or any county in  
43 this state in which a corporation may be organized and in which it is  
44 contemplated the corporation will function.

1           7. "Persons of low and moderate income" means, for the purposes of  
2 financing owner-occupied single family dwelling units in areas which the  
3 municipality has found, pursuant to section 36-1479, to be slum or blighted  
4 areas, as defined in section 36-1471, persons and families whose income does  
5 not exceed two and one-half times the median family income of this state. In  
6 all other areas it means persons and families whose income does not exceed  
7 one and one-half times the median family income of this state.

8           8. "Project" means any land, any building or any other improvement and  
9 all real and personal properties, including machinery and equipment whether  
10 or not now in existence or under construction and whether located within or  
11 without this state or the municipality or county approving the formation of  
12 the corporation, that are suitable for any of the following:

13           (a) With respect to a corporation formed with the permission of a  
14 municipality or county other than the Arizona board of regents:

15           (i) Any enterprise for the manufacturing, processing or assembling of  
16 any agricultural or manufactured products.

17           (ii) Any commercial enterprise for the storing, warehousing,  
18 distributing or selling of products of agriculture, mining or industry, or of  
19 processes related thereto, including research and development.

20           (iii) Any office building or buildings for use as corporate or company  
21 headquarters or regional offices or the adaptive use for offices of any  
22 building within this state that is on the national register of historic  
23 places or rehabilitation of residential buildings located in registered  
24 historic neighborhoods.

25           (iv) A health care institution as defined in section 36-401.

26           (v) Residential real property for dwelling units located within the  
27 municipality or county approving the formation of the corporation and, in the  
28 case of a county, whether or not also within a municipality that is within  
29 the county.

30           (vi) Repairing or rehabilitating single family dwelling units or  
31 constructing or repairing residential fences and walls.

32           (vii) Convention or trade show facilities.

33           (viii) Airports, docks, wharves, mass commuting facilities, parking  
34 facilities or storage or training facilities directly related to any of the  
35 facilities as provided in this item.

36           (ix) Sewage or solid waste disposal facilities or facilities for the  
37 furnishing of electric energy, gas or water.

38           (x) Industrial park facilities.

39           (xi) Air or water pollution control facilities.

40           (xii) Any educational institution that is operated by a nonprofit  
41 educational organization that is exempt from taxation under section 501(c)(3)  
42 of the United States internal revenue code and that is not otherwise funded  
43 by state monies, any educational institution or organization that is  
44 established under title 15, chapter 1, article 8 and that is owned by a  
45 nonprofit organization, any private nonsectarian school or any private

1 nonsectarian organization established for the purpose of funding a joint  
2 technological education school district.

3 (xiii) Research and development facilities.

4 (xiv) Commercial enterprises, including facilities for office,  
5 recreational, hotel, motel and service uses if the facilities authorized by  
6 this item are to be located in a designated area.

7 (xv) A child welfare agency, as defined in section 8-501, owned and  
8 operated by a nonprofit organization.

9 ~~(xvi) A transportation facility constructed or operated pursuant to~~  
10 ~~title 28, chapter 22, article 1 or 2.~~

11 ~~(xvii)~~ (xvi) A museum operated by a nonprofit organization.

12 ~~(xviii)~~ (xvii) Facilities owned or operated by a nonprofit  
13 organization described in section 501(c) of the United States internal  
14 revenue code of 1986.

15 ~~(xix)~~ (xviii) New or existing correctional facilities within this  
16 state.

17 (b) With respect to a corporation formed with the permission of the  
18 Arizona board of regents, any facility consisting of classrooms, lecture  
19 halls or conference centers or any facility for research and development or  
20 for manufacturing, processing, assembling, marketing, storing and  
21 transferring items developed through or connected with research and  
22 development or in which the results of such research and development are  
23 utilized, but only if the facility is located in an area designated as a  
24 research park by the Arizona board of regents.

25 9. "Property" means any land, improvements thereon, buildings and any  
26 improvements thereto, machinery and equipment of any and all kinds necessary  
27 to a project and any other personal properties deemed necessary in connection  
28 with a project.

29 10. "Research park" means an area of land that has been designated by  
30 the Arizona board of regents as a research park for a university and that, at  
31 the date of designation, is owned by this state or by the Arizona board of  
32 regents.

33 11. "Single family dwelling unit" includes any new, used or  
34 manufactured house that meets the insuring requirements of the federal  
35 housing administration, the veterans administration or any other insuring  
36 entity of the United States government or any private mortgage insurance or  
37 surety company that is approved by the federal home loan mortgage corporation  
38 or the federal national mortgage association.

39 Sec. 5. Section 42-5069, Arizona Revised Statutes, is amended to read:

40 ~~42-5069.~~ Commercial lease classification; definitions

41 A. The commercial lease classification is comprised of the business of  
42 leasing for a consideration the use or occupancy of real property.

43 B. A person who, as a lessor, leases or rents for a consideration  
44 under one or more leases or rental agreements the use or occupancy of real  
45 property that is used by the lessee for commercial purposes is deemed to be

1 engaged in business and subject to the tax imposed by article 1 of this  
2 chapter, but this subsection does not include leases or rentals of real  
3 property used for residential or agricultural purposes.

4 C. The commercial lease classification does not include:

5 1. Any business activities that are classified under the transient  
6 lodging classification.

7 2. Activities engaged in by the Arizona exposition and state fair  
8 board or county fair commissions in connection with events sponsored by those  
9 entities.

10 3. Leasing real property to a lessee who subleases the property if the  
11 lessee is engaged in business classified under the commercial lease  
12 classification or the transient lodging classification.

13 4. Leasing real property pursuant to a written lease agreement entered  
14 into before December 1, 1967. This exclusion does not apply to the  
15 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,  
16 apartment houses, office buildings, automobile storage garages, parking lots  
17 or tourist camps, or to the extension or renewal of any such written lease  
18 agreement.

19 5. Leasing real property by a corporation to an affiliated  
20 corporation. For the purposes of this paragraph, "affiliated corporation"  
21 means a corporation that owns or controls at least eighty per cent of the  
22 lessor, that is at least eighty per cent owned or controlled by the lessor or  
23 that is at least eighty per cent owned or controlled by a corporation that  
24 also owns or controls at least eighty per cent of the lessor. Ownership and  
25 control are determined by reference to the voting shares of a corporation.

26 ~~6. Leasing real property for sublease if the tenant in possession of~~  
27 ~~the property is subject to the rental occupancy tax pursuant to article 9 of~~  
28 ~~this chapter.~~

29 ~~7.~~ 6. Leasing real property for boarding horses.

30 ~~8.~~ 7. Leasing or renting real property or the right to use real  
31 property at exhibition events in this state sponsored, operated or conducted  
32 by a nonprofit organization that is exempt from taxation under section  
33 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
34 organization is associated with major league baseball teams or a national  
35 touring professional golfing association and no part of the organization's  
36 net earnings inures to the benefit of any private shareholder or individual.

37 ~~9.~~ 8. Leasing or renting real property or the right to use real  
38 property for use as a rodeo featuring primarily farm and ranch animals in  
39 this state sponsored, operated or conducted by a nonprofit organization that  
40 is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
41 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the  
42 organization's net earnings inures to the benefit of any private shareholder  
43 or individual.

1       ~~10.~~ 9. Leasing or renting dwelling units, lodging facilities or  
2 trailer or mobile home spaces if the units, facilities or spaces are intended  
3 to serve as the principal or permanent place of residence for the lessee or  
4 renter or if the unit, facility or space is leased or rented to a single  
5 tenant thirty or more consecutive days.

6       ~~11.~~ 10. Leasing or renting real property and improvements for use  
7 primarily for religious worship by a nonprofit organization that is exempt  
8 from taxation under section 501(c)(3) of the internal revenue code and no  
9 part of the organization's net earnings inures to the benefit of any private  
10 shareholder or individual.

11       ~~12.~~ 11. Leasing or renting real property used for agricultural  
12 purposes under either of the following circumstances:

13           (a) The lease or rental is between family members, trusts, estates,  
14 corporations, partnerships, joint venturers or similar entities, or any  
15 combination thereof, if the individuals or at least eighty per cent of the  
16 beneficiaries, shareholders, partners or joint venturers share a family  
17 relationship as parents or ancestors of parents, children or descendants of  
18 children, siblings, cousins of the first degree, aunts, uncles, nieces or  
19 nephews of the first degree, spouses of any of the listed relatives and  
20 listed relatives by the half-blood or by adoption.

21           (b) The lessor leases or rents real property used for agricultural  
22 purposes under no more than three leases or rental agreements.

23       ~~13.~~ 12. Leasing, renting or granting the right to use real property to  
24 vendors or exhibitors by a trade or industry association that is a qualifying  
25 organization pursuant to section 513(d)(3)(C) of the internal revenue code  
26 for a period not to exceed twenty-one days in connection with an event that  
27 meets all of the following conditions:

28           (a) The majority of such vending or exhibition activities relate to  
29 the nature of the trade or business sponsoring the event.

30           (b) The event is held in conjunction with a formal business meeting of  
31 the trade or industry association.

32           (c) The event is organized by the persons engaged in the particular  
33 trade or industry.

34       ~~14.~~ 13. Leasing, renting or granting the right to use real property  
35 for a period not to exceed twenty-one days by a coliseum, civic center, civic  
36 plaza, convention center, auditorium or arena owned by this state or any of  
37 its political subdivisions.

38       ~~15.~~ 14. Leasing or subleasing real property used by a nursing care  
39 institution as defined in section 36-401 that is licensed pursuant to title  
40 36, chapter 4.

41       ~~16. Leasing or renting a transportation facility as provided in section~~  
42 ~~28-7705, subsections A and B.~~

43       ~~17.~~ 15. Granting or providing rights to real property that constitute  
44 a profit à prendre for the severance of minerals, including all rights to use  
45 the surface or subsurface of the property as is necessary or convenient to

1 the right to sever the minerals. This paragraph does not exclude from the  
2 commercial lease classification leasehold rights to the real property that  
3 are granted in addition to and not included within the right of profit à  
4 prendre, but the tax base for the grant of such a leasehold right, if the  
5 gross income derived from the grant is not separately stated from the gross  
6 income derived from the grant of the profit à prendre, shall not exceed the  
7 fair market value of the leasehold rights computed after excluding the value  
8 of all rights under the profit à prendre. For the purposes of this  
9 paragraph, "profit à prendre" means a right to use the land of another to  
10 mine minerals, and carries with it the right of entry and the right to remove  
11 and take the minerals from the land and also includes the right to use the  
12 surface of the land as is necessary and convenient for exercise of the  
13 profit.

14 D. The tax base for the commercial lease classification is the gross  
15 proceeds of sales or gross income derived from the business, but  
16 reimbursements to the lessor for utility service shall be deducted from the  
17 tax base.

18 E. Notwithstanding section 42-1104, subsection B, paragraph 1,  
19 subdivision (b) and paragraph 2, the failure to file tax returns for the  
20 commercial lease classification that report gross income derived from any  
21 agreement that constitutes, in whole or in part, a grant of a right of profit  
22 à prendre for the severance of minerals does not constitute an exception to  
23 the general rule for the statute of limitations.

24 F. For the purposes of this section:

- 25 1. "Leasing" includes renting.  
26 2. "Real property" includes any improvements, rights or interest in  
27 such property.

28 Sec. 6. Section 42-6208, Arizona Revised Statutes, is amended to read:  
29 42-6208. Exempt government property improvements

30 The tax under this article does not apply with respect to:

- 31 1. Property that is used for a governmental activity.  
32 2. Property that is used for public housing.  
33 3. Easements and rights-of-way of railroads and gas, electric, water,  
34 pipeline and telephone utilities.  
35 4. Interests in all or any part of a facility that is owned of record  
36 by a government lessor and used primarily for athletic, recreational,  
37 entertainment, artistic, cultural or convention activities if the interest is  
38 used for those activities or activities directly related and incidental to  
39 these uses including concession stands.  
40 5. Property that is located on municipal airports and airports that  
41 operate pursuant to sections 28-8423, 28-8424 and 28-8425, if the property is  
42 used for or in connection with aviation, including hangars, tie-downs,  
43 aircraft maintenance, sale of aviation related items, charter and rental  
44 activities, commercial aircraft terminal franchises, parking facilities and  
45 restaurants, stores and other services that are located in a terminal.

1           6. The use by a commercial airline of the runways and terminal  
2 facilities of state, city, town or county airports and public airports  
3 operating pursuant to sections 28-8423, 28-8424 and 28-8425.

4           ~~7. Leases of property or interests in a transportation facility that~~  
5 ~~is constructed or operated pursuant to title 28, chapter 22, article 1 or 2.~~

6           ~~8.~~ 7. Interests in property held in trust for an Indian or an Indian  
7 tribe by the United States government.

8           ~~9.~~ 8. Interests in property that is defined as "contractor-acquired  
9 property" or "government-furnished property" in the federal acquisition  
10 regulations (48 Code of Federal Regulations section 45.101) and that is owned  
11 by the government and used to perform a government contract.

12          ~~10.~~ 9. Property of a corporation that is organized by or at the  
13 direction of a county, city or town to develop, construct, improve, repair,  
14 replace or own any property, improvement, building or other facility to be  
15 used for public purposes that the county, city or town pledges to lease or  
16 lease-purchase with county or municipal special or general revenues.

17          ~~11.~~ 10. Interests in property used by a chamber of commerce recognized  
18 under section 501(c)(6) of the United States internal revenue code if the  
19 property is used predominately for those federal tax exempt purposes.

20          ~~12.~~ 11. Interests in property used by organizations that are exempt  
21 from taxation under section 501(c)(3) of the internal revenue code.

22          ~~13.~~ 12. Interests in parking garages or decks if the parking garages  
23 or decks are owned and operated by a government lessor or operated on behalf  
24 of a government lessor, by an entity other than the prime lessee, pursuant to  
25 a management agreement with the government lessor.

26          ~~14.~~ 13. Residential rentals if the prime lessee is the occupant.