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REFERENCE TITLE: use tax; natural gas.

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

## **HB 2506**

Introduced by  
Representatives Hart: Wagner

### **AN ACT**

AMENDING SECTIONS 42-5063, 42-5067, 42-5151, 42-5155 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5160, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 326, SECTION 20; REPEALING SECTION 42-5160, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 338, SECTION 2; AMENDING SECTIONS 42-5162, 42-5164, 42-6103, 42-6104, 42-6106, 42-6107 AND 42-6109, ARIZONA REVISED STATUTES; REPEALING SECTION 42-6110, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6111, ARIZONA REVISED STATUTES; RELATING TO STATE AND COUNTY USE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to  
3 read:  
4 42-5063. Utilities classification; definitions  
5 A. The utilities classification is comprised of the business of:  
6 1. Producing and furnishing or furnishing to consumers ~~natural or~~  
7 ~~artificial gas and~~ water.  
8 2. Providing to retail electric customers ancillary services, electric  
9 distribution services, electric generation services, electric transmission  
10 services and other services related to providing electricity.  
11 3. PROVIDING NATURAL GAS UTILITY SERVICES TO RETAIL NATURAL GAS  
12 CUSTOMERS.  
13 B. The ~~utility~~ UTILITIES classification does not include:  
14 1. Sales of ancillary services, electric distribution services,  
15 electric generation services, electric transmission services and other  
16 services related to providing electricity, NATURAL gas UTILITY SERVICES or  
17 water to a person who resells the services.  
18 2. Sales of natural gas or liquefied petroleum gas used to propel a  
19 motor vehicle.  
20 3. Sales of alternative fuel, as defined in section 1-215, to a used  
21 oil fuel burner who has received a permit to burn used oil or used oil fuel  
22 under section 49-426 or 49-480.  
23 4. Sales of ancillary services, electric distribution services,  
24 electric generation services, electric transmission services and other  
25 services that are related to providing electricity to a retail electric  
26 customer who is located outside this state for use outside this state if the  
27 electricity is delivered to a point of sale outside this state.  
28 5. SALES OF NATURAL GAS UTILITY SERVICES TO A RETAIL NATURAL GAS  
29 CUSTOMER WHO IS LOCATED OUTSIDE THIS STATE FOR USE OUTSIDE THIS STATE IF THE  
30 NATURAL GAS IS DELIVERED TO A POINT OF SALE OUTSIDE THIS STATE.  
31 C. The tax base for the utilities classification is the gross proceeds  
32 of sales or gross income derived from the business, but the following shall  
33 be deducted from the tax base:  
34 1. Revenues received by a municipally owned utility in the form of  
35 fees charged to persons constructing residential, commercial or industrial  
36 developments or connecting residential, commercial or industrial developments  
37 to a municipal utility system or systems if the fees are segregated and used  
38 only for capital expansion, system enlargement or debt service of the utility  
39 system or systems.  
40 2. Revenues received by any person or persons owning a utility system  
41 in the form of reimbursement or contribution compensation for property and  
42 equipment installed to provide utility access to, on or across the land of an  
43 actual utility consumer if the property and equipment become the property of  
44 the utility. This deduction shall not exceed the value of such property and  
45 equipment.

1           3. Gross proceeds of sales or gross income derived from sales to:  
2           (a) Qualifying hospitals as defined in section 42-5001.

3           (b) A qualifying health care organization as defined in section  
4 42-5001 if the tangible personal property is used by the organization solely  
5 to provide health and medical related educational and charitable services.

6           4. The portion of gross proceeds of sales or gross income that is  
7 derived from sales to ~~an~~ A QUALIFIED environmental technology manufacturer,  
8 producer or processor as defined in section 41-1514.02 of a utility product  
9 and that is used directly in environmental technology manufacturing,  
10 producing or processing. This paragraph shall apply for fifteen full  
11 consecutive calendar or fiscal years from the date the first paper  
12 manufacturing machine is placed in service. In the case of ~~an~~ A QUALIFIED  
13 environmental technology manufacturer, producer or processor who does not  
14 manufacture paper, the time period shall begin with the date the first  
15 manufacturing, processing or production equipment is placed in service.

16           D. TO THE EXTENT NOT OTHERWISE EXEMPT, THE INTERSTATE PIPELINE  
17 TRANSPORTATION OF NATURAL GAS TO A CUSTOMER IN THIS STATE MAY BE SUBJECT TO  
18 TAX UNDER EITHER THIS SECTION OR THE PIPELINE CLASSIFICATION UNDER SECTION  
19 42-5067, BUT THE SAME INTERSTATE PIPELINE TRANSPORTATION OF NATURAL GAS MAY  
20 NOT BE SUBJECT TO TAX UNDER BOTH CLASSIFICATIONS.

21           ~~D.~~ E. For purposes of this section:

22           1. "Ancillary services" means those services so designated in federal  
23 energy regulatory commission order 888 adopted in 1996 that include the  
24 services necessary to support the transmission of electricity from resources  
25 to loads while maintaining reliable operation of the transmission system  
26 according to good utility practice.

27           2. "Electric distribution service" means distributing electricity to  
28 retail electric customers through the use of electric distribution  
29 facilities.

30           3. "Electric generation service" means providing electricity for sale  
31 to retail electric customers but excluding electric distribution or  
32 transmission services.

33           4. "Electric transmission service" means transmitting electricity to  
34 retail electric customers or to electric distribution facilities so  
35 classified by the federal energy regulatory commission or, to the extent  
36 permitted by law, so classified by the Arizona corporation commission.

37           5. "NATURAL GAS" MEANS NATURAL OR ARTIFICIAL GAS, AND INCLUDES METHANE  
38 AND PROPANE GAS, THE NATURAL GAS COMMODITY, NATURAL GAS PIPELINE CAPACITY OR  
39 NATURAL GAS COMMODITY PIPELINE CAPACITY.

40           6. "NATURAL GAS UTILITY SERVICES" MEANS THE BUSINESS OF SELLING  
41 NATURAL GAS OR PROVIDING NATURAL GAS TRANSPORTATION SERVICES OR OTHER  
42 SERVICES RELATED TO PROVIDING NATURAL GAS.

43           ~~5.~~ 7. "Other services" includes metering, meter reading services,  
44 billing and collecting services.

1           ~~6-~~ 8. "Retail electric customer" means a person who purchases  
2 electricity for that person's own use, including use in that person's trade  
3 or business and not for resale, redistribution or retransmission.

4           9. "RETAIL NATURAL GAS CUSTOMER" MEANS A PERSON WHO PURCHASES NATURAL  
5 GAS UTILITY SERVICES FOR THAT PERSON'S OWN USE, INCLUDING USE IN THE PERSON'S  
6 TRADE OR BUSINESS, AND NOT FOR RESALE OR REDISTRIBUTION.

7           Sec. 2. Section 42-5067, Arizona Revised Statutes, is amended to read:  
8 42-5067. Pipeline classification; definition

9           A. The pipeline classification is comprised of the business of  
10 operating pipelines for transporting oil or natural ~~or artificial~~ gas through  
11 pipes or conduits from one point to another point in this state. THE  
12 PIPELINE CLASSIFICATION ALSO COMPRISES THE BUSINESS OF OPERATING PIPELINES  
13 FOR TRANSPORTING NATURAL GAS FROM OUTSIDE THIS STATE TO A NATURAL GAS  
14 CUSTOMER LOCATED IN THIS STATE. The pipeline classification does not include  
15 sales of natural gas or liquefied petroleum gas used to propel a motor  
16 vehicle.

17           B. The tax base for the pipeline classification is the gross proceeds  
18 of sales or gross income derived from the business, but the taxpayer shall  
19 deduct from the tax base the gross proceeds of sales or gross income derived  
20 from pipeline services to:

21           1. Qualifying hospitals as defined in section 42-5001.

22           2. A qualifying health care organization as defined in section 42-5001  
23 if the oil or gas is used by the organization solely to provide health and  
24 medical related educational and charitable services.

25           3. A NATURAL GAS UTILITY BUSINESS THAT RESELLS THE NATURAL GAS UTILITY  
26 SERVICES.

27           C. NATURAL GAS INTERSTATE PIPELINE TRANSPORTATION SERVICES TO A  
28 CUSTOMER IN THIS STATE ARE NOT SUBJECT TO TAX UNDER THIS SECTION IF THE SALE  
29 OF THE NATURAL GAS UTILITY SERVICE IS EXEMPT FROM TAXATION UNDER SECTION  
30 42-5063.

31           D. UNLESS OTHERWISE EXEMPT, THE INTERSTATE PIPELINE TRANSPORTATION OF  
32 NATURAL GAS MAY BE SUBJECT TO TAX UNDER EITHER THIS SECTION OR THE UTILITIES  
33 CLASSIFICATION UNDER SECTION 42-5063, BUT THE SAME INTERSTATE PIPELINE  
34 TRANSPORTATION OF NATURAL GAS MAY NOT BE SUBJECT TO TAX UNDER BOTH  
35 CLASSIFICATIONS.

36           E. FOR THE PURPOSES OF THIS SECTION, "NATURAL GAS" AND "RETAIL NATURAL  
37 GAS CUSTOMER" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 42-5063.

38           Sec. 3. Section 42-5151, Arizona Revised Statutes, is amended to read:  
39 42-5151. Definitions

40           In this article, unless the context otherwise requires:

41           1. "Ancillary services" means those services so designated in federal  
42 energy regulatory commission order 888 adopted in 1996 that include the  
43 services necessary to support the transmission of electricity from resources  
44 to loads while maintaining reliable operation of the transmission system  
45 according to good utility practice.

- 1           2. "Electric distribution service" means distributing electricity to  
2 retail electric customers through the use of electric distribution  
3 facilities.
- 4           3. "Electric generation service" means providing electricity for sale  
5 to retail electric customers but excluding electric distribution or  
6 transmission services.
- 7           4. "Electric transmission service" means transmitting electricity to  
8 retail electric customers or to electric distribution facilities so  
9 classified by the federal energy regulatory commission or, to the extent  
10 permitted by law, so classified by the Arizona corporation commission.
- 11           5. "Electric utility services" means the business of providing  
12 electric ancillary services, electric distribution services, electric  
13 generation services, electric transmission services and other services  
14 related to providing electricity.
- 15           6. "Electricity" means electric energy, electric capacity or electric  
16 capacity and energy.
- 17           7. "Electricity supplier" means a person, whether acting in a  
18 principal, agent or other capacity, that offers to sell electricity to a  
19 retail electric customer in this state.
- 20           8. "Natural gas" means natural or artificial gas, and includes methane  
21 and propane gas, the natural gas commodity, natural gas pipeline capacity or  
22 natural gas commodity and pipeline capacity.
- 23           9. "Natural gas utility services" means the business of selling  
24 natural gas or providing natural gas transportation services or other  
25 services related to providing natural gas.
- 26           10. "Notice" means written notice served personally or by certified  
27 mail and addressed to the last known address of the person to whom such  
28 notice is given.
- 29           11. "Other services" includes metering, meter reading services, billing  
30 and collecting services.
- 31           12. "Person" means an individual, firm, partnership, joint venture,  
32 association, corporation, estate, trust, receiver or syndicate, this state or  
33 a county, city, municipality, district or other political subdivision or  
34 agency thereof.
- 35           13. "Purchase" means any transfer, exchange or barter, conditional or  
36 otherwise, in any manner or by any means, of tangible personal property **OR**  
37 **UTILITY SERVICES** for a consideration, including transactions by which the  
38 possession of property is transferred but the seller retains the title as  
39 security for payment.
- 40           14. "Purchase price" or "sales price" means the total amount for which  
41 tangible personal property ~~is~~ **OR UTILITY SERVICES ARE** sold, including any  
42 services that are a part of the sale, valued in money, whether paid in money  
43 or otherwise, and any amount for which credit is given to the purchaser by  
44 the seller without any deduction on account of the cost of the property sold,

1 materials used, labor or services performed, interest charged, losses or  
2 other expenses, but does not include:

3 (a) Discounts allowed and taken.

4 (b) Charges for labor or services in installing, remodeling or  
5 repairing.

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

9 (d) Amounts attributable to federal excise taxes imposed by 26 United  
10 States Code section 4001, 4051 or 4091 on sales of heavy trucks and trailers  
11 and automobiles or on sales of use fuel, as defined in section 28-5601.

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

15 16. "Retail natural gas customer" means a person who purchases natural  
16 gas **UTILITY SERVICES** for that person's own use, including use in that  
17 person's trade or business, and not for resale, ~~OR~~ **OR** redistribution ~~or~~  
18 ~~retransmission~~.

19 17. "Retailer" includes:

20 (a) Every person engaged in the business of making sales of tangible  
21 personal property for storage, use or other consumption or in the business of  
22 making sales at auction of tangible personal property owned by that person or  
23 others for storage, use or other consumption. If in the opinion of the  
24 department it is necessary for the efficient administration of this article  
25 to regard any salesmen, representatives, peddlers or canvassers as the agents  
26 of the dealers, distributors, supervisors or employers under whom they  
27 operate or from whom they obtain the tangible personal property sold by them,  
28 regardless of whether they are making sales on their own behalf or on behalf  
29 of such dealers, distributors, supervisors or employers, the department may  
30 so regard them and may regard the dealers, distributors, supervisors or  
31 employers as retailers for purposes of this article.

32 (b) A person who solicits orders for tangible personal property by  
33 mail if the solicitations are substantial and recurring or if the retailer  
34 benefits from any banking, financing, debt collection, telecommunication,  
35 television shopping system, cable, optic, microwave or other communication  
36 system or marketing activities occurring in this state or benefits from the  
37 location in this state of authorized installation, servicing or repair  
38 facilities.

39 18. "Storage" means keeping or retaining tangible personal property  
40 purchased from a retailer **OR UTILITY SERVICE FROM A UTILITY BUSINESS** for any  
41 purpose except sale in the regular course of business or subsequent use  
42 solely outside this state.

1           19. "Taxpayer" means any retailer or person storing, using or consuming  
2 tangible personal property OR UTILITY SERVICES the storage, use or  
3 consumption of which is subject to the tax imposed by this article when such  
4 tax was not paid to a retailer.

5           20. "Use or consumption" means the exercise of any right or power over  
6 tangible personal property OR UTILITY SERVICES incidental to owning the  
7 property OR UTILITY SERVICES except holding for sale or selling the property  
8 OR UTILITY SERVICES in the regular course of business.

9           21. "Utility business" means a person that is engaged in the business  
10 of providing electric utility services to retail electric customers or  
11 natural gas utility services to retail natural gas customers.

12           22. "UTILITY SERVICES" MEANS ELECTRIC UTILITY SERVICES OR NATURAL GAS  
13 UTILITY SERVICES.

14           Sec. 4. Section 42-5155, Arizona Revised Statutes, is amended to read:  
15 42-5155. Levy of tax; tax rate; purchaser's liability

16           A. There is levied and imposed an excise tax on the storage, use or  
17 consumption in this state of tangible personal property purchased from a  
18 retailer or THE STORAGE, USE OR CONSUMPTION IN THIS STATE OF ELECTRIC OR  
19 NATURAL GAS UTILITY SERVICES FROM A utility business, as a percentage of the  
20 sales price.

21           B. The tax imposed by this section applies to any purchaser which  
22 purchased tangible personal property for resale but subsequently uses or  
23 consumes the property.

24           C. The tax rate shall equal the rate of tax prescribed by section  
25 42-5010, subsection A as applied to retailers and utility businesses  
26 according to the respective classification under articles 1 and 2 of this  
27 chapter for the same type of transaction or business activity.

28           D. In addition to the rate prescribed by subsection C of this section,  
29 if approved by the qualified electors voting at a statewide general election,  
30 an additional rate increment of six-tenths of one per cent is imposed and  
31 shall be collected through June 30, 2021. The taxpayer shall pay taxes  
32 pursuant to this subsection at the same time and in the same manner as under  
33 subsection C of this section. The department shall separately account for the  
34 revenues collected with respect to the rate imposed pursuant to this  
35 subsection, and the state treasurer shall pay all of those revenues in the  
36 manner prescribed by section 42-5029, subsection E.

37           E. Every person storing, using or consuming in this state tangible  
38 personal property purchased from a retailer or STORING, USING OR CONSUMING  
39 ELECTRIC OR NATURAL GAS UTILITY SERVICES IN THIS STATE FROM A utility  
40 business is liable for the tax. The person's liability is not extinguished  
41 until the tax has been paid to this state.

42           F. A receipt from a retailer or utility business that maintains a  
43 place of business in this state or from a retailer or utility business that  
44 is authorized by the department to collect the tax, under such rules as it  
45 may prescribe, and that is for the purposes of this article regarded as a

1 retailer or utility business maintaining a place of business in this state,  
2 given to the purchaser as provided in section 42-5161 is sufficient to  
3 relieve the purchaser from further liability for the tax to which the receipt  
4 refers.

5 Sec. 5. Section 42-5159, Arizona Revised Statutes, is amended to read:  
6 42-5159. Exemptions

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

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

13 2. Tangible personal property the sale or use of which has already  
14 been subjected to an excise tax at a rate equal to or exceeding the tax  
15 imposed by this article under the laws of another state of the United States.  
16 If the excise tax imposed by the other state is at a rate less than the tax  
17 imposed by this article, the tax imposed by this article is reduced by the  
18 amount of the tax already imposed by the other state.

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

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

26 5. Motor vehicle fuel and use fuel, the sales, distribution or use of  
27 which in this state is subject to the tax imposed under the provisions of  
28 title 28, chapter 16, article 1, use fuel which is sold to or used by a  
29 person holding a valid single trip use fuel tax permit issued under section  
30 28-5739, aviation fuel, the sales, distribution or use of which in this state  
31 is subject to the tax imposed under section 28-8344, and jet fuel, the sales,  
32 distribution or use of which in this state is subject to the tax imposed  
33 under article 8 of this chapter.

34 6. Tangible personal property brought into this state by an individual  
35 who was a nonresident at the time the property was purchased for storage, use  
36 or consumption by the individual if the first actual use or consumption of  
37 the property was outside this state, unless the property is used in  
38 conducting a business in this state.

39 7. Purchases of implants used as growth promotants and injectable  
40 medicines, not already exempt under paragraph 16 of this subsection, for  
41 livestock and poultry owned by, or in possession of, persons who are engaged  
42 in producing livestock, poultry, or livestock or poultry products, or who are  
43 engaged in feeding livestock or poultry commercially. For purposes of this  
44 paragraph, "poultry" includes ratites.

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

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

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

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

15           12. Materials that are purchased by or for publicly funded libraries  
16 including school district libraries, charter school libraries, community  
17 college libraries, state university libraries or federal, state, county or  
18 municipal libraries for use by the public as follows:

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

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

21           13. Tangible personal property purchased by:

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

25           (b) A hospital operated by this state or a political subdivision of  
26 this state.

27           (c) A licensed nursing care institution or a licensed residential care  
28 institution or a residential care facility operated in conjunction with a  
29 licensed nursing care institution or a licensed kidney dialysis center, which  
30 provides medical services, nursing services or health related services and is  
31 not used or held for profit.

32           (d) A qualifying health care organization, as defined in section  
33 42-5001, if the tangible personal property is used by the organization solely  
34 to provide health and medical related educational and charitable services.

35           (e) A qualifying health care organization as defined in section  
36 42-5001 if the organization is dedicated to providing educational,  
37 therapeutic, rehabilitative and family medical education training for blind,  
38 visually impaired and multihandicapped children from the time of birth to age  
39 twenty-one.

40           (f) A nonprofit charitable organization that has qualified under  
41 section 501(c)(3) of the United States internal revenue code and that engages  
42 in and uses such property exclusively for training, job placement or  
43 rehabilitation programs or testing for mentally or physically handicapped  
44 persons.

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

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

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

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

14 (h) A nonprofit charitable organization that has qualified under  
15 section 501(c)(3) of the internal revenue code if the property is purchased  
16 from the parent or an affiliate organization that is located outside this  
17 state.

18 (i) A qualifying community health center as defined in section  
19 42-5001.

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

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

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

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

41 15. Tangible personal property sold by:

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

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

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

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

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

18 18. Prescription eyeglasses and contact lenses.

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

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

21 21. Durable medical equipment which has a centers for medicare and  
22 medicaid services common procedure code, is designated reimbursable by  
23 medicare, is prescribed by a person who is licensed under title 32, chapter  
24 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
25 used to serve a medical purpose, is generally not useful to a person in the  
26 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

40 26. Food, drink or condiment and accessory tangible personal property  
41 if they are to be prepared and served to persons for consumption on the  
42 premises of a public school in a school district during school hours.

43 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,  
44 article 1.

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

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

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

8           31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
9 purchased by a qualified environmental technology manufacturer, producer or  
10 processor as defined in section 41-1514.02 and directly used or consumed in  
11 the generation or provision of on-site power or energy solely for  
12 environmental technology manufacturing, producing or processing or  
13 environmental protection. This paragraph shall apply for fifteen full  
14 consecutive calendar or fiscal years from the date the first paper  
15 manufacturing machine is placed in service. In the case of an environmental  
16 technology manufacturer, producer or processor who does not manufacture  
17 paper, the time period shall begin with the date the first manufacturing,  
18 processing or production equipment is placed in service.

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

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

23           (b) Public educational institutions.

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

27           33. Natural gas or liquefied petroleum gas used to propel a motor  
28 vehicle.

29           34. Machinery, equipment, technology or related supplies that are only  
30 useful to assist a person who is physically disabled as defined in section  
31 46-191, has a developmental disability as defined in section 36-551 or has a  
32 head injury as defined in section 41-3201 to be more independent and  
33 functional.

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

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

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

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

12           39. Overhead materials or other tangible personal property that is used  
13 in performing a contract between the United States government and a  
14 manufacturer, modifier, assembler or repairer, including property used in  
15 performing a subcontract with a government contractor who is a manufacturer,  
16 modifier, assembler or repairer, to which title passes to the government  
17 under the terms of the contract or subcontract. For purposes of this  
18 paragraph:

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

26           (b) "Subcontract" means an agreement between a contractor and any  
27 person who is not an employee of the contractor for furnishing of supplies or  
28 services that, in whole or in part, are necessary to the performance of one  
29 or more government contracts, or under which any portion of the contractor's  
30 obligation under one or more government contracts is performed, undertaken or  
31 assumed, and that includes provisions causing title to overhead materials or  
32 other tangible personal property used in the performance of the subcontract  
33 to pass to the government or that includes provisions incorporating such  
34 title passing clauses in a government contract into the subcontract.

35           40. Through December 31, 1994, tangible personal property sold pursuant  
36 to a personal property liquidation transaction, as defined in section  
37 42-5061. From and after December 31, 1994, tangible personal property sold  
38 pursuant to a personal property liquidation transaction, as defined in  
39 section 42-5061, if the gross proceeds of the sales were included in the  
40 measure of the tax imposed by article 1 of this chapter or if the personal  
41 property liquidation was a casual activity or transaction.

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

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

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

12           44. Alternative fuel vehicles, as defined in section 43-1086, if the  
13 vehicle was manufactured as a diesel fuel vehicle and converted to operate on  
14 alternative fuel and equipment that is installed in a conventional diesel  
15 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,  
16 as defined in section 1-215.

17           45. Gas diverted from a pipeline, by a person engaged in the business  
18 of operating a natural or artificial gas pipeline, and used or consumed for  
19 the sole purpose of fueling compressor equipment that pressurizes the  
20 pipeline.

21           46. Tangible personal property **AND UTILITY SERVICES** that ~~is~~ **ARE**  
22 excluded, exempt or deductible from transaction privilege tax pursuant to  
23 section 42-5063.

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

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

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

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

42           2. Machinery, or equipment, used directly in the process of extracting  
43 ores or minerals from the earth for commercial purposes, including equipment  
44 required to prepare the materials for extraction and handling, loading or  
45 transporting such extracted material to the surface. "Mining" includes

- 1 underground, surface and open pit operations for extracting ores and  
2 minerals.
- 3 3. Tangible personal property sold to persons engaged in business  
4 classified under the telecommunications classification under section 42-5064  
5 and consisting of central office switching equipment, switchboards, private  
6 branch exchange equipment, microwave radio equipment and carrier equipment  
7 including optical fiber, coaxial cable and other transmission media which are  
8 components of carrier systems.
- 9 4. Machinery, equipment or transmission lines used directly in  
10 producing or transmitting electrical power, but not including distribution.  
11 Transformers and control equipment used at transmission substation sites  
12 constitute equipment used in producing or transmitting electrical power.
- 13 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or  
14 to be used as breeding or production stock, including sales of breedings or  
15 ownership shares in such animals used for breeding or production.
- 16 6. Pipes or valves four inches in diameter or larger used to transport  
17 oil, natural gas, artificial gas, water or coal slurry, including compressor  
18 units, regulators, machinery and equipment, fittings, seals and any other  
19 part that is used in operating the pipes or valves.
- 20 7. Aircraft, navigational and communication instruments and other  
21 accessories and related equipment sold to:
- 22 (a) A person holding a federal certificate of public convenience and  
23 necessity, a supplemental air carrier certificate under federal aviation  
24 regulations (14 Code of Federal Regulations part 121) or a foreign air  
25 carrier permit for air transportation for use as or in conjunction with or  
26 becoming a part of aircraft to be used to transport persons, property or  
27 United States mail in intrastate, interstate or foreign commerce.
- 28 (b) Any foreign government for use by such government outside of this  
29 state, or sold to persons who are not residents of this state and who will  
30 not use such property in this state other than in removing such property from  
31 this state.
- 32 8. Machinery, tools, equipment and related supplies used or consumed  
33 directly in repairing, remodeling or maintaining aircraft, aircraft engines  
34 or aircraft component parts by or on behalf of a certificated or licensed  
35 carrier of persons or property.
- 36 9. Rolling stock, rails, ties and signal control equipment used  
37 directly to transport persons or property.
- 38 10. Machinery or equipment used directly to drill for oil or gas or  
39 used directly in the process of extracting oil or gas from the earth for  
40 commercial purposes.
- 41 11. Buses or other urban mass transit vehicles which are used directly  
42 to transport persons or property for hire or pursuant to a governmentally  
43 adopted and controlled urban mass transportation program and which are sold  
44 to bus companies holding a federal certificate of convenience and necessity  
45 or operated by any city, town or other governmental entity or by any person

1 contracting with such governmental entity as part of a governmentally adopted  
2 and controlled program to provide urban mass transportation.

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

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

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

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

16 14. Machinery or equipment used in research and development. In this  
17 paragraph, "research and development" means basic and applied research in the  
18 sciences and engineering, and designing, developing or testing prototypes,  
19 processes or new products, including research and development of computer  
20 software that is embedded in or an integral part of the prototype or new  
21 product or that is required for machinery or equipment otherwise exempt under  
22 this section to function effectively. Research and development do not  
23 include manufacturing quality control, routine consumer product testing,  
24 market research, sales promotion, sales service, research in social sciences  
25 or psychology, computer software research that is not included in the  
26 definition of research and development, or other nontechnological activities  
27 or technical services.

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

35 (a) "Motion picture, multimedia or interactive video production"  
36 includes products for theatrical and television release, educational  
37 presentations, electronic retailing, documentaries, music videos, industrial  
38 films, CD-ROM, video game production, commercial advertising and television  
39 episode production and other genres that are introduced through developing  
40 technology.

41 (b) "Soundstage complex" means a facility of multiple stages including  
42 production offices, construction shops and related areas, prop and costume  
43 shops, storage areas, parking for production vehicles and areas that are  
44 leased to businesses that complement the production needs and orientation of  
45 the overall facility.

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

4           (a) Any direct broadcast satellite television or data transmission  
5 service that operates pursuant to 47 Code of Federal Regulations parts 25 and  
6 100.

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

9           (i) Over two-thirds of the transmissions, measured in megabytes,  
10 transmitted by the facility during the test period were transmitted to or on  
11 behalf of one or more direct broadcast satellite television or data  
12 transmission services that operate pursuant to 47 Code of Federal Regulations  
13 parts 25 and 100.

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

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

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

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

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

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

43           19. Machinery or equipment, including related structural components,  
44 that is employed in connection with manufacturing, processing, fabricating,  
45 job printing, refining, mining, natural gas pipelines, metallurgical

1 operations, telecommunications, producing or transmitting electricity or  
2 research and development and that is used directly to meet or exceed rules or  
3 regulations adopted by the federal energy regulatory commission, the United  
4 States environmental protection agency, the United States nuclear regulatory  
5 commission, the Arizona department of environmental quality or a political  
6 subdivision of this state to prevent, monitor, control or reduce land, water  
7 or air pollution.

8 20. Machinery and equipment that are used in the commercial production  
9 of livestock, livestock products or agricultural, horticultural, viticultural  
10 or floricultural crops or products in this state and that are used directly  
11 and primarily to prevent, monitor, control or reduce air, water or land  
12 pollution.

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

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

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

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

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

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

33 2. Janitorial equipment and hand tools.

34 3. Office equipment, furniture and supplies.

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

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

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

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

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

3 1. Revenues received from sales of ancillary services, electric  
4 distribution services, electric generation services, electric transmission  
5 services and other services related to providing electricity to a retail  
6 electric customer who is located outside this state for use outside this  
7 state if the electricity is delivered to a point of sale outside this state.

8 2. Revenues received from providing electricity, including ancillary  
9 services, electric distribution services, electric generation services,  
10 electric transmission services and other services related to providing  
11 electricity with respect to which the transaction privilege tax imposed under  
12 section 42-5063 has been paid.

13 E. THE FOLLOWING SHALL BE DEDUCTED IN COMPUTING THE PURCHASE PRICE OF  
14 NATURAL GAS UTILITY SERVICES BY A RETAIL NATURAL GAS CUSTOMER FROM A UTILITY  
15 BUSINESS:

16 1. REVENUES RECEIVED FROM SALES OF NATURAL GAS OR NATURAL GAS UTILITY  
17 SERVICES TO A RETAIL NATURAL GAS CUSTOMER WHO IS LOCATED OUTSIDE THIS STATE  
18 FOR USE OUTSIDE THIS STATE, IF THE NATURAL GAS IS DELIVERED TO A POINT OF  
19 SALE OUTSIDE THIS STATE OR THE NATURAL GAS UTILITY SERVICES ARE PROVIDED TO A  
20 RETAIL NATURAL GAS CUSTOMER LOCATED OUTSIDE THIS STATE.

21 2. REVENUES RECEIVED FROM PROVIDING NATURAL GAS UTILITY SERVICES ON  
22 WHICH THE TAX IMPOSED ON THE GROSS RECEIPTS FROM THE SALE OR GROSS INCOME OF  
23 WHICH ARE INCLUDED IN THE MEASURE OF THE TAX IMPOSED BY ARTICLES 1 AND 2 OF  
24 THIS CHAPTER.

25 ~~E.~~ F. The tax levied by this article does not apply to:

26 1. The storage, use or consumption in Arizona of machinery, equipment,  
27 materials or other tangible personal property if used directly and  
28 predominantly to construct a qualified environmental technology  
29 manufacturing, producing or processing facility, as described in section  
30 41-1514.02. This paragraph applies for ten full consecutive calendar or  
31 fiscal years after the start of initial construction.

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

41 ~~F.~~ G. The following shall be deducted in computing the purchase price  
42 of ~~electricity~~ ELECTRIC UTILITY SERVICES by a retail electric customer from a  
43 utility business OR THE PURCHASE PRICE OF NATURAL GAS UTILITY SERVICES BY A  
44 RETAIL NATURAL GAS CUSTOMER FROM A UTILITY BUSINESS:

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

6           2. Reimbursement or contribution compensation to any person or persons  
7 owning a utility system for property and equipment installed to provide  
8 utility access to, on or across the land of an actual utility consumer if the  
9 property and equipment become the property of the utility. This deduction  
10 shall not exceed the value of such property and equipment.

11           ~~G.~~ H. For the purposes of subsection B of this section:

12           1. "Aircraft" includes:

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

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

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

22           ~~H.~~ I. For purposes of subsection D of this section, "ancillary  
23 services", "electric distribution service", "electric generation service",  
24 "electric transmission service" and "other services" have the same meanings  
25 prescribed by section 42-5063.

26           Sec. 6. Section 42-5160, Arizona Revised Statutes, as amended by Laws  
27 2002, chapter 326, section 20, is amended to read:

28           42-5160. Liability for tax

29           Any person who uses, stores or consumes any tangible personal property,  
30 **OR WHO STORES, USES OR CONSUMES ELECTRIC OR NATURAL GAS UTILITY SERVICES,**  
31 upon which a tax is imposed by this article and upon which the tax has not  
32 been collected by a registered retailer or utility business shall pay the tax  
33 as provided by this article, but every retailer or utility business  
34 maintaining a place of business in this state and making sales of tangible  
35 personal property **OR UTILITY SERVICES** for storage, use or other consumption  
36 in this state, ~~unless exempt by the provisions of this article, shall at the~~  
37 ~~time of making the sales~~ **SHALL** collect the tax from the purchaser or user  
38 **UNLESS THE PROPERTY IS EXEMPT UNDER THIS ARTICLE OR THE PURCHASER OR USER**  
39 **PAYS THE TAX DIRECTLY TO THE DEPARTMENT AS PROVIDED BY SECTION 42-5167.**

40           Sec. 7. Repeal

41           Section 42-5160, Arizona Revised Statutes, as amended by Laws 2002,  
42 chapter 338, section 2, is repealed.

1           Sec. 8. Section 42-5162, Arizona Revised Statutes, is amended to read:  
2           42-5162. Monthly return; time for payment; extension of time;  
3                                   quarterly payment

4           A. ~~From and after April 30, 1985,~~ Every retailer engaged in the  
5 business of making sales of tangible personal property the use, storage or  
6 consumption of which is subject to the tax imposed by this article, **EVERY**  
7 **UTILITY BUSINESS ENGAGED IN THE BUSINESS OF PROVIDING UTILITY SERVICES THE**  
8 **STORAGE, USE OR CONSUMPTION OF WHICH IS SUBJECT TO THE TAX IMPOSED BY THIS**  
9 **ARTICLE** and every person who purchases for use, storage or consumption any  
10 such property for which the tax is not paid to the retailer **OR UTILITY**  
11 **BUSINESS**, shall file a return with the department on or before the twentieth  
12 day of the month next succeeding the month in which the tax accrues. The  
13 return shall be on a form prescribed by the department and shall show the  
14 tangible personal property **OR UTILITY SERVICES** sold for use, storage or  
15 consumption or purchased for use, storage or consumption within the state  
16 during the preceding calendar month. Such return shall be verified by oath  
17 or affirmation of the retailer, **UTILITY BUSINESS** or person making the report,  
18 or his agent, and shall be accompanied by payment of the tax shown to be due.  
19 The return and tax are delinquent if not postmarked on or before the  
20 twenty-fifth day of the month when due or if not received by the department  
21 on or before the business day preceding the last business day of that month  
22 for those taxpayers electing to file by mail, or are delinquent if not  
23 received by the department on the business day preceding the last business  
24 day of the month when due for those taxpayers electing to file in person.

25           B. The department may, for any taxpayer whose estimated annual  
26 liability for taxes imposed by this article is between five hundred and one  
27 thousand two hundred fifty dollars, authorize such taxpayer to pay such taxes  
28 on a quarterly basis. The department may, for any taxpayer whose estimated  
29 annual liability for taxes imposed by this article is five hundred dollars or  
30 less, authorize such taxpayer to pay such taxes on an annual basis.

31           C. For good cause shown the department may extend the time for making  
32 a return and paying the tax, but the time for filing the return shall not be  
33 extended beyond the first day of the third month next succeeding the regular  
34 due date of the return.

35           Sec. 9. Section 42-5164, Arizona Revised Statutes, is amended to read:  
36           42-5164. Disposition of revenue

37           A. The department shall deposit, pursuant to sections 35-146 and  
38 35-147, all monies received under the provisions of this article.

39           B. Twenty per cent of the revenues collected from the **USE** tax on  
40 ~~electricity~~ **ELECTRIC AND NATURAL GAS UTILITY SERVICES** purchased from  
41 ~~electricity suppliers~~ **A UTILITY BUSINESS** is designated as distribution base  
42 for purposes of section 42-5029.

43           C. The remainder of the monies collected pursuant to this article  
44 shall be deposited in the state general fund pursuant to section 42-1116.

1           Sec. 10. Section 42-6103, Arizona Revised Statutes, is amended to  
2 read:

3           42-6103. County general excise tax; authority to levy; rate;  
4                                   distribution; use of proceeds

5           A. A county having a population of less than one million five hundred  
6 thousand persons, according to the most recent United States decennial  
7 census, on a unanimous vote of the board of supervisors, may levy and, if  
8 levied, the department shall collect a county general excise tax on each  
9 person engaging or continuing in the county in a business taxed under chapter  
10 5, article 1 of this title and section 42-5352, subsection A.

11           B. The excise tax levied pursuant to subsection A of this section  
12 shall be at a rate applied as a percentage of the rates prescribed by section  
13 42-5010, subsection A on each class of business subject to the tax imposed by  
14 chapter 5, article 1 of this title and section 42-5352, subsection A, not to  
15 exceed ten per cent.

16           C. A COUNTY IMPOSING AN EXCISE TAX UNDER SUBSECTION A OF THIS SECTION  
17 MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT A COUNTY USE TAX ON THE  
18 STORAGE, USE OR CONSUMPTION OF ELECTRIC OR NATURAL GAS UTILITY SERVICES BY  
19 RETAIL ELECTRIC OR NATURAL GAS CUSTOMERS IN THE COUNTY WHO ARE SUBJECT TO USE  
20 TAX UNDER SECTION 42-5155, AT A RATE EQUAL TO THE GENERAL COUNTY EXCISE TAX  
21 RATE UNDER SUBSECTION B OF THIS SECTION APPLYING TO PERSONS ENGAGING OR  
22 CONTINUING IN BUSINESS IN THE COUNTY IN THE UTILITIES TRANSACTION PRIVILEGE  
23 CLASSIFICATION. IF THE BOARD OF SUPERVISORS APPROVED A COUNTY GENERAL EXCISE  
24 TAX UNDER SUBSECTION A OF THIS SECTION BEFORE DECEMBER 31, 2001, A TAX UNDER  
25 THIS SUBSECTION MAY BE APPROVED BY RESOLUTION ADOPTED BY A MAJORITY OF THE  
26 MEMBERS OF THE BOARD. IF THE BOARD OF SUPERVISORS DID NOT APPROVE A COUNTY  
27 GENERAL EXCISE TAX UNDER SUBSECTION A OF THIS SECTION BEFORE DECEMBER 31,  
28 2001, A TAX UNDER THIS SUBSECTION MAY ONLY BE APPROVED BY RESOLUTION ADOPTED  
29 BY A UNANIMOUS VOTE OF THE MEMBERS OF THE BOARD OF SUPERVISORS IN THE MANNER  
30 PRESCRIBED BY SUBSECTION A OF THIS SECTION. A COUNTY USE TAX UNDER THIS  
31 SUBSECTION TAKES EFFECT ON THE FIRST DAY OF A DESIGNATED MONTH AT LEAST  
32 NINETY DAYS AFTER THE DATE OF THE RESOLUTION LEVYING THE TAX.

33           ~~C.~~ D. At the end of each month the state treasurer shall transmit the  
34 net revenues collected pursuant to this section to the treasurer of the  
35 county levying the tax. The county shall use these revenues to support and  
36 enhance countywide services.

37           Sec. 11. Section 42-6104, Arizona Revised Statutes, is amended to  
38 read:

39           42-6104. County transportation excise tax for roads; counties  
40                                   with population of one million two hundred thousand  
41                                   or more persons

42           A. If a majority of the qualified electors voting at a countywide  
43 special election approves the transportation excise tax, a county with a  
44 population of one million two hundred thousand or more persons shall levy and  
45 the department shall collect a tax:





1 B. The net revenues collected under this section within a county shall  
2 be deposited in the county's regional area road fund pursuant to title 28,  
3 chapter 17, article 3.

4 C. The tax shall be levied under this section beginning January 1 or  
5 July 1, whichever date occurs first after approval by the voters, and may be  
6 in effect for a period of not more than twenty years.

7 Sec. 14. Section 42-6109, Arizona Revised Statutes, is amended to  
8 read:

9 42-6109. Jail facilities excise tax; maintenance of effort;  
10 definition

11 A. If approved by the qualified electors voting at a countywide  
12 general election, a county with a population of at least one million five  
13 hundred thousand persons shall levy and the department shall collect a  
14 transaction privilege tax, in addition to all other taxes, at rates of not  
15 more than 4.0 per cent of the transaction privilege tax rate prescribed by  
16 section 42-5010, subsection A applying to each person engaging or continuing  
17 in the county in a business taxed under chapter 5, article 1 of this title.

18 B. If a tax is levied under subsection A of this section, the county  
19 board of supervisors, by resolution, may levy and, if levied, the department  
20 shall collect a use tax on the STORAGE, use or consumption of electricity  
21 ELECTRIC or natural gas UTILITY SERVICES by retail electric or natural gas  
22 customers in the county and subject to use tax pursuant to section 42-5155.  
23 The use tax levied pursuant to this subsection shall be applied as a  
24 percentage of the use tax imposed by chapter 5, article 4 of this title equal  
25 to the percentage determined under subsection A of this section.

26 C. Taxes shall be levied under this section beginning January 1 or  
27 July 1, whichever date first occurs after approval by the voters, or county  
28 board of supervisors, as applicable, and may continue in effect until the  
29 amount of nine hundred million dollars of revenue is collected, as determined  
30 by the department of revenue, but in any event not more than nine years as  
31 adopted by resolution of the county board of supervisors before the election  
32 and as approved by the voters. The board of supervisors may, by resolution,  
33 decrease or increase the rates of taxes during the term of the taxes, subject  
34 to the maximum rates prescribed by this section.

35 D. At the end of each month the state treasurer shall transmit the net  
36 revenues collected pursuant to this section to the treasurer of the county  
37 levying the tax. If the county that initially imposes the tax under this  
38 section is divided into two or more new counties during the term of the tax,  
39 each new county shall continue to impose the tax, but the state treasurer  
40 shall transmit the net revenues collected within both counties equally to  
41 each of the new counties. The county treasurer shall segregate all the  
42 monies received under this section for use only for the purposes authorized  
43 by this section. The county treasurer may disburse monies from the fund only  
44 to:

- 45 1. Finance construction of new adult and juvenile jail facilities.

- 1           2. Maintain and operate adult and juvenile jail facilities.  
2           3. Fund the following for the purpose of reducing the expense of adult  
3 and juvenile jail facilities:  
4           (a) Implementing an integrated criminal justice information system.  
5           (b) Developing regional centers for courts not of record.  
6           (c) Implementing differentiated case management for criminal cases in  
7 superior court.  
8           (d) Consolidating criminal divisions of the superior court in the  
9 county to a common location.  
10          (e) Expanding pretrial release supervision.  
11          (f) Implementing electronic monitoring of preadjudicated defendants.  
12          (g) Enhancing substance abuse evaluation and programming.  
13          (h) Increasing drug court admissions to include preadjudicated  
14 defendants and expanding drug court jurisdiction.  
15          (i) Using community based juvenile detention and postadjudication  
16 programs.  
17          E. The county shall maintain its support of adult and juvenile jail  
18 facilities. The county shall determine the amount the county spent for  
19 maintenance and operation of adult and juvenile jail facilities in the fiscal  
20 year immediately preceding the first fiscal year in which the tax is levied  
21 under this section. The auditor general shall audit this amount and the  
22 audited amount is the base expenditure. Any outstanding debt due from a  
23 city, this state or the United States for the county housing prisoners  
24 pursuant to section 31-121 shall be excluded from the base expenditure. In  
25 the first year the tax is levied under this section the county shall pay an  
26 amount equal to the base expenditure adjusted by the percentage change in the  
27 assessed valuation of the taxable property in the county, determined for  
28 secondary property tax purposes, from the preceding year. In each year the  
29 tax is imposed, the county shall pay an amount equal to the amount paid under  
30 this subsection in the preceding fiscal year, adjusted by the percentage  
31 change in the assessed valuation of the taxable property in the county,  
32 determined for secondary property tax purposes, from the preceding year. The  
33 county treasurer shall transfer that amount, without further authorization,  
34 in twelve equal monthly installments from the county general fund for the  
35 uses prescribed in subsection D of this section. For purposes of this  
36 subsection, "maintenance and operation" includes detention personnel  
37 compensation, employee related expenses, utility expenses of the facility,  
38 costs of food and care of prisoners, administrative support costs and costs  
39 of maintaining and repairing the facility and grounds.  
40          F. For the purposes of this section, "jail facility" means a jail or  
41 other place of detention of persons charged with or convicted of a crime or  
42 of persons who are subject to the jurisdiction of the juvenile court.  
43          Sec. 15. Repeal  
44          Section 42-6110, Arizona Revised Statutes, is repealed.

1           Sec. 16. Section 42-6111, Arizona Revised Statutes, is amended to  
2 read:

3           42-6111. County capital projects tax

4           A. The board of supervisors of a county with a population of less than  
5 two million persons, on a unanimous vote, may submit a proposed county  
6 capital projects tax for approval at a countywide special election or at a  
7 general election. If a majority of the qualified electors voting on the  
8 proposition approves the tax, the board of supervisors may levy and the  
9 department shall collect a tax, in addition to all other taxes, at a rate  
10 that, by itself or together with any tax imposed pursuant to section 42-6106  
11 or 42-6107, does not exceed ten per cent of the transaction privilege tax  
12 rate prescribed by section 42-5010, subsection A applying, as of the date of  
13 its initial levy, to each person engaging or continuing in the county in a  
14 business taxed under chapter 5, article 1 of this title.

15           B. If a tax is levied under subsection A of this section, a tax shall  
16 also be levied on the STORAGE, use or consumption of ~~electricity~~ ELECTRIC or  
17 natural gas UTILITY SERVICES by retail electric or natural gas customers in  
18 the county who are subject to use tax under section 42-5155 at a rate equal  
19 to the transaction privilege tax rate under subsection A of this section  
20 applying to persons engaging or continuing in the county in the utilities  
21 transaction privilege tax classification.

22           C. The tax shall be levied under this section beginning on January 1  
23 or July 1, whichever date first occurs at least forty-five days after the  
24 election. The tax may be in effect for a period of not more than twenty  
25 years.

26           D. The state treasurer shall deposit the net revenues collected  
27 pursuant to this section in a fund designated as that county's transportation  
28 and capital projects fund. The state treasurer shall hold the monies in the  
29 fund as trustee for the county. The county has the beneficial interest in  
30 the fund. The state treasurer shall invest the monies in the county  
31 transportation and capital projects fund and shall credit to the fund all  
32 interest and other income earned from investments.

33           E. Each month the state treasurer shall distribute the monies in the  
34 transportation and capital projects fund to the county in a manner prescribed  
35 by the board of supervisors. The county may only use the revenues for  
36 capital projects and to purchase, construct and lease buildings, structures,  
37 facilities, roads, highways and other real and personal property, including  
38 open space and development rights, for the use or benefit of the county.

39           F. The ballot in the election described in subsection A of this  
40 section shall list each project to be financed with the tax collected and the  
41 estimated costs of each project. The tax terminates if and when the total  
42 amount of estimated costs for all of the projects has been raised.

1           Sec. 17. Requirements for enactment; two-thirds vote

2           Pursuant to article IX, section 22, Constitution of Arizona, this act  
3 is effective only on the affirmative vote of at least two-thirds of the  
4 members of each house of the legislature and is effective immediately on the  
5 signature of the governor or, if the governor vetoes this act, on the  
6 subsequent affirmative vote of at least three-fourths of the members of each  
7 house of the legislature.