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

Section 1. Title 42, Chapter 5 of the Arizona Revised Statutes is amended to add Article 3.2, commencing at 42-5131 to read:

ARTICLE 3.2 TAX EXEMPTION FOR SALES OF ELECTRICITY

42-5131. DEFINITIONS

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. “ELECTRICITY” MEANS THE SAME AS DEFINED IN 42-5063(A)(2), APPLICABLE TO RETAIL ELECTRIC CUSTOMERS.

2. “EMISSIONS RATE” MEANS THE CARBON INTENSITY FACTOR DETERMINED PURSUANT TO THE SINGLE SYSTEM-AVERAGE DELIVERY METRIC IN THE CLIMATE REGISTRY’S ELECTRIC POWER SECTOR PROTOCOL.

3. “STATEWIDE EMISSIONS BENCHMARK” MEANS THE WEIGHTED AVERAGE EMISSIONS RATE OF ALL UTILITIES IN THE STATE IN 2021, WEIGHTED BY MEGAWATT HOURS DELIVERED TO RETAIL ELECTRIC CUSTOMERS IN 2021.

4. “TAX RATE” MEANS THE TRANSACTION PRIVILEGE TAX RATE APPLICABLE TO ELECTRICITY IMPOSED IN 42-5010(A)(1).

5. “UTILITY” MEANS THE SAME AS DEFINED IN 42-5063(A)(2) THAT SELLS ELECTRICITY TO RETAIL ELECTRIC CUSTOMERS.

42-5132. TAX EXEMPTION FOR SALES OF ELECTRICITY

A. THE DEPARTMENT SHALL DETERMINE THE STATEWIDE EMISSIONS BENCHMARK AS FOLLOWS:

1. AT LEAST THIRTY DAYS PRIOR TO DECEMBER 1, 2022, EACH UTILITY SHALL DETERMINE ITS EMISSIONS RATE FOR 2021 AND SHALL SUBMIT THAT RATE TO THE DEPARTMENT IN A FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, ALONG WITH THE NUMBER OF MEGAWATT HOURS DELIVERED TO RETAIL ELECTRIC CUSTOMERS IN 2021 .

2. UPON RECEIVING THE EMISSIONS RATE FROM EACH UTILITY, THE DEPARTMENT SHALL CALCULATE THE STATEWIDE EMISSIONS BENCHMARK AND SHALL NOTIFY EACH UTILITY OF SUCH BENCHMARK AT LEAST THIRTY DAYS PRIOR TO JULY 1, 2023.

B. AT LEAST THIRTY DAYS PRIOR TO JULY 1, 2023, AND AT LEAST THIRTY DAYS PRIOR TO JULY 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL USE EMISSIONS RATES FOR THE PREVIOUS YEAR TO DETERMINE THE TAX RATE FOR THE SUBSEQUENT YEAR AS FOLLOWS AND SHALL NOTIFY EACH UTILITY OF SUCH TAX RATE:

1. AT LEAST SIXTY DAYS PRIOR TO JULY 1, 2023, AND AT LEAST SIXTY DAYS PRIOR TO JULY 1 OF EACH YEAR THEREAFTER, EACH UTILITY SHALL DETERMINE ITS EMISSIONS RATE FOR THE PREVIOUS YEAR AND SHALL SUBMIT THAT RATE TO THE DEPARTMENT IN A FORM AND MATTER PRESCRIBED BY THE DEPARTMENT.

a. FOR A UTILITY THAT HAS AN EMISSIONS RATE EQUAL TO OR GREATER THAN THE STATEWIDE EMISSIONS BENCHMARK, OR THAT DOES NOT SUBMIT AN EMISSIONS RATE, THE TAX RATE SHALL REMAIN UNCHANGED;

b. FOR A UTILITY WITH AN EMISSIONS RATE THAT IS AT LEAST EIGHTY PERCENT BUT LESS THAN ONE HUNDRED PERCENT OF THE STATEWIDE EMISSIONS BENCHMARK, THE TAX RATE SHALL BE ONE PERCENTAGE POINT LOWER;

c. FOR A UTILITY WITH AN EMISSIONS RATE THAT IS AT LEAST SIXTY PERCENT BUT LESS THAN EIGHTY PERCENT OF THE STATEWIDE EMISSIONS BENCHMARK, THE TAX RATE SHALL BE TWO PERCENTAGE POINTS LOWER;

d. FOR A UTILITY WITH AN EMISSIONS RATE THAT IS AT LEAST FORTY PERCENT BUT LESS THAN SIXTY PERCENT OF THE STATEWIDE EMISSIONS BENCHMARK, THE TAX RATE SHALL BE THREE PERCENTAGE POINTS LOWER;

e. FOR A UTILITY WITH AN EMISSIONS RATE THAT IS AT LEAST TWENTY PERCENT BUT LESS THAN FORTY PERCENT OF THE STATEWIDE EMISSIONS BENCHMARK, THE TAX RATE SHALL BE FOUR PERCENTAGE POINTS LOWER; AND

f. FOR A UTILITY WITH AN EMISSIONS RATE THAT IS LESS THAN TWENTY PERCENT OF THE STATEWIDE EMISSIONS BENCHMARK, THE SALE OF ELECTRICITY SHALL BE EXEMPT FROM THE TAX RATE.

42-5133. RECORDS OF SALES

A. UTILITIES SHALL MAINTAIN ACCURATE, VERIFIABLE AND COMPLETE RECORDS OF ALL TRANSACTIONS AND SALES OF ELECTRICITY IN ORDER TO VERIFY EXEMPTIONS FROM TAXES IMPOSED BY THIS CHAPTER. A UTILITY MAY USE ANY METHOD OF RECORDING THAT PROPERLY REFLECTS ALL TRANSACTIONS AND SALES OF ELECTRICITY EXEMPTED FROM TAXES IMPOSED BY THIS CHAPTER, AS WELL AS ALL PURCHASES AND SALES OF ITEMS SUBJECT TO TAXES IMPOSED BY THIS CHAPTER, PROVIDED SUCH RECORDS ARE MAINTAINED IN ACCORDANCE WITH THE RULES ADOPTED BY THE DEPARTMENT.

B. ANY UTILITY WHO FAILS TO MAINTAIN RECORDS AS PROVIDED IN THIS SECTION SHALL PAY THE AMOUNT OF TAXES THAT WOULD HAVE BEEN IMPOSED ON ELECTRICITY BY THIS CHAPTER IF SALES OF ELECTRICITY HAD NOT BEEN EXEMPTED BY ARTICLE 2 OF THIS CHAPTER AND THIS ARTICLE.

C. IF, UPON REQUEST BY THE DEPARTMENT, THE UTILITY CANNOT DEMONSTRATE TO THE DEPARTMENT THAT SUCH RECORDS PROPERLY REFLECT ALL SALES OF ELECTRICITY EXEMPTED FROM TAXES IMPOSED BY THIS CHAPTER, THE DEPARTMENT MAY RECOMPUTE THE AMOUNT OF TAX TO BE PAID PURSUANT TO SECTION 42-1108.

42-5134. CALCULATION OF EMISSIONS RATE

A. WHEN SUBMITTING ITS EMISSIONS RATE TO THE DEPARTMENT, EACH UTILITY SHALL INCLUDE ALL WORK-PAPERS, SUPPORTING EVIDENCE, AND DOCUMENTATION.

B. THIS STATEMENT SHALL ALSO INCLUDE EITHER AN ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY VERIFICATION THAT THE EMISSIONS IDENTIFIED BY THE UTILITY ARE CORRECT AND CONSISTENT WITH THOSE REPORTED TO THE ENVIRONMENTAL PROTECTION AGENCY'S EMISSIONS AND GENERATION RESOURCE INTEGRATED DATABASE OR AN EXPLANATION OF WHY THAT CERTIFICATION COULD NOT BE OBTAINED.

42-5135. RULES

A. THE DEPARTMENT SHALL ADOPT RULES CONSISTENT WITH 42-5131, 42-5132, AND 42-5134.