

1                                   **MUNICIPAL ENERGY SALES AND USE TAX -**  
2   **COMPUTATION OF TAXABLE BASE**

3   2000 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: John L. Valentine**

6 AN ACT RELATING TO THE MUNICIPAL ENERGY SALES AND USE TAX ACT;  
7 AMENDING AND CLARIFYING THE DEFINITION OF "DELIVERED VALUE" TO  
8 EXCLUDE THE MUNICIPAL ENERGY SALES AND USE TAX; AND MAKING  
9 TECHNICAL CHANGES.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12                   **10-1-303**, as last amended by Chapter 13, Laws of Utah 1998

13 *Be it enacted by the Legislature of the state of Utah:*

14                   Section 1. Section **10-1-303** is amended to read:

15                   **10-1-303. Definitions.**

16                   As used in this part:

17                   (1) "Commission" means the State Tax Commission.

18                   (2) "Contractual franchise fee" means:

19                   (a) a fee:

20                   (i) provided for in a franchise agreement; and

21                   (ii) that is consideration for the franchise agreement; or

22                   (b) (i) a fee similar to Subsection (2)(a); or

23                   (ii) any combination of Subsections (2)(a) and (b).

24                   (3) (a) "Delivered value" means the fair market value of the taxable energy delivered for  
25 sale or use in the municipality and includes:

26                   (i) the value of the energy itself; and

27                   (ii) any transportation, freight, customer demand charges, services charges, or other costs

28 typically incurred in providing taxable energy in usable form to each class of customer in the  
29 municipality.

30 (b) "Delivered value" does not include the amount of a tax paid under:

31 (i) Title 59, Chapter 12, Part 1, Tax Collection; [or]

32 (ii) Title 59, Chapter 12, Part 2, The Local Sales and Use Tax Act; or

33 (iii) this part.

34 (4) "De minimus amount" means an amount of taxable energy that does not exceed the  
35 greater of:

36 (a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property  
37 or services; or

38 (b) \$10,000.

39 (5) "Energy supplier" means a person supplying taxable energy, except that the  
40 commission may by rule exclude from this definition a person supplying a de minimus amount of  
41 taxable energy.

42 (6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement  
43 granting a franchise.

44 (7) "Franchise tax" means:

45 (a) a franchise tax;

46 (b) a tax similar to a franchise tax; or

47 (c) any combination of Subsections (7)(a) and (b).

48 (8) "Person" is as defined in Section 59-12-102.

49 (9) "Taxable energy" means gas and electricity.

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**Legislative Review Note**

**as of 1-28-00 4:19 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**