

Representative Gregory H. Hughes proposes the following substitute bill:

MUNICIPAL ENERGY SALES AND USE TAX

AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Municipal Energy Sales and Use Tax Act.

Highlighted Provisions:

This bill:

- ▶ enacts definitions;
- ▶ enacts provisions relating to a reduction in the municipal energy sales and use tax on the sale or use of gas;
- ▶ requires a reduction in the amount of gas sales tax revenues paid to municipalities in December 2006 and December 2007 in an amount equal to the amount by which sales tax revenues exceed the amount of the previous year's revenues plus 10%;
- ▶ requires gas suppliers to reduce their rate in December 2006 and December 2007 to offset the reduction in gas sales tax revenues to municipalities; and
- ▶ enacts provisions related to the process for accomplishing those reductions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-1-307**, as last amended by Chapter 255, Laws of Utah 2004

29

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

31 Section 1. Section **10-1-307** is amended to read:

32 **10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**
33 **for services -- Collection of taxes by municipality.**

34 (1) Except for the direct payment provisions provided in Subsection (3), the
35 commission shall collect, enforce, and administer the municipal energy sales and use tax from
36 energy suppliers according to the procedures established in Title 59, Chapter 12, Part 1, Tax
37 Collection, except for Sections 59-12-107.1 through 59-12-107.3.

38 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
39 10-1-310(2) and subject to Subsection (6), the commission shall pay a municipality the
40 difference between:

41 (i) the entire amount collected by the commission from the municipal energy sales and
42 use tax authorized by this part based on:

43 (A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that
44 imposes a municipal energy sales and use tax as provided in this part; or

45 (B) the point of use of the taxable energy if the use occurs in a municipality that
46 imposes a municipal energy sales and use tax as provided in this part; and

47 (ii) the administration fee charged in accordance with Subsection (2)(c).

48 (b) In accordance with Subsection (2)(a), the commission shall transfer to the
49 municipality monthly by electronic transfer the revenues generated by the municipal energy
50 sales and use tax levied by the municipality and collected by the commission.

51 (c) (i) The commission shall charge a municipality imposing a municipal energy sales
52 and use tax a fee for administering the tax at the percentage provided in Section 59-12-206,
53 except that the commission may not charge a fee for taxes collected by a municipality under
54 Subsection (3).

55 (ii) The fee charged under Subsection (2)(c)(i) shall be:

56 (A) deposited in the Sales and Use Tax Administrative Fees Account; and

57 (B) used for sales tax administration as provided in Subsection 59-12-206(2).

58 (3) An energy supplier shall pay the municipal energy sales and use tax revenues it
59 collects from its customers under this part directly to each municipality in which the energy
60 supplier has sales of taxable energy if:

61 (a) the municipality is the energy supplier; or

62 (b) (i) the energy supplier estimates that the municipal energy sales and use tax
63 collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more;
64 and

65 (ii) the energy supplier collects the tax imposed by this part.

66 (4) An energy supplier paying a tax under this part directly to a municipality may retain
67 the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's
68 costs of collecting and remitting the tax.

69 (5) An energy supplier paying the tax under this part directly to a municipality shall file
70 an information return with the commission, at least annually, on a form prescribed by the
71 commission.

72 (6) (a) As used in this Subsection (6):

73 (i) "2005 base amount" means, for a municipality that imposes a gas sales tax, the
74 amount of gas sales tax paid to the municipality for fiscal year 2005.

75 (ii) "2006 base amount" means, for a municipality that imposes a gas sales tax, the
76 amount of gas sales tax paid to the municipality for fiscal year 2006, reduced by the 2006
77 rebate amount.

78 (iii) "2006 rebate amount" means, for a municipality that imposes a gas sales tax, the
79 difference between:

80 (A) the amount of gas sales tax paid to the municipality for fiscal year 2006; and

81 (B) the 2005 base amount, plus 10% of the 2005 base amount.

82 (iv) "2007 rebate amount" means, for a municipality that imposes a gas sales tax, the
83 difference between:

84 (A) the amount of gas sales tax paid to the municipality for fiscal year 2007; and

85 (B) the 2006 base amount, plus 10% of the 2006 base amount.

86 (v) "Collection agent" means:

87 (A) the commission, if the gas sales tax for the applicable municipality is collected by

88 the commission as provided in Subsection (1); and

89 (B) the gas supplier, if the gas sales tax for the applicable municipality is collected by
90 the gas supplier as provided in Subsection (3).

91 (vi) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,
92 2005.

93 (vii) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,
94 2006.

95 (viii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,
96 2007.

97 (ix) "Gas sales tax" means the municipal energy sales and use tax imposed by a
98 municipality on the sale or use of gas.

99 (x) "Gas supplier" means an energy supplier that supplies gas.

100 (b) (i) In December 2006, each collection agent shall reduce the amount of gas sales
101 tax proceeds to be paid to a municipality under this section for that month by the 2006 rebate
102 amount.

103 (ii) If the 2006 rebate amount exceeds the amount of gas sales tax to be paid to the
104 municipality for December 2006, the collection agent shall reduce the amount of gas sales tax
105 proceeds to be paid to the municipality each month thereafter by the remaining 2006 rebate
106 amount until the 2006 rebate amount is exhausted.

107 (iii) If the commission is the collection agent, it shall pay a refund to the gas supplier
108 for December 2006 and each month thereafter that the commission, as collection agent, is
109 required under Subsection (6)(b)(ii) to reduce the amount of gas sales tax proceeds to be paid
110 to the municipality, in the same amount as the reduction to the municipality.

111 (iv) For December 2006 and for each month thereafter that the collection agent is
112 required under Subsection (6)(b)(ii) to reduce the amount of gas sales tax to be paid to a
113 municipality, each gas supplier shall reduce its rate to gas customers in that municipality
114 sufficient to reduce revenue from the sale of gas in the same amount as the reduction to the
115 municipality.

116 (c) (i) In December 2007, each collection agent shall reduce the amount of gas sales tax
117 proceeds to be paid to a municipality under this section for that month by the 2007 rebate
118 amount.

119 (ii) If the 2007 rebate amount exceeds the amount of gas sales tax to be paid to the
120 municipality for December 2007, the collection agent shall reduce the amount of gas sales tax
121 proceeds to be paid to the municipality each month thereafter by the remaining 2007 rebate
122 amount until the 2007 rebate amount is exhausted.

123 (iii) If the commission is the collection agent, it shall pay a refund to the gas supplier
124 for December 2007 and each month thereafter that the commission, as collection agent, is
125 required under Subsection (6)(c)(ii) to reduce the amount of gas sales tax proceeds to be paid to
126 the municipality, in the same amount as the reduction to the municipality.

127 (iv) For December 2007 and for each month thereafter that the collection agent is
128 required under Subsection (6)(c)(ii) to reduce the amount of gas sales tax to be paid to a
129 municipality, each gas supplier shall reduce its rate to gas customers in that municipality
130 sufficient to reduce revenue from the sale of gas in the same amount as the reduction to the
131 municipality.

132 (d) Nothing in this Subsection (6) may be construed to require a reduction under
133 Subsection (6)(b) or (c) if the rebate amount is zero or negative.

Fiscal Note**Municipal Energy Sales and Use Tax Amendments***09-Feb-06***Bill Number HB0309S01***8:21 AM*

State Impact

Passage of this bill could decrease the local revenues from the energy sales and use tax over time.

Individual and Business Impact

Individuals could see a reduction in energy sales and use tax paid over time.

Office of the Legislative Fiscal Analyst