

**MUNICIPAL ENERGY SALES AND USE TAX****REVISIONS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gregory H. Hughes**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill modifies a provision relating to the municipal energy sales and use tax.

**Highlighted Provisions:**

This bill:

- requires a reduction in the amount of the natural gas portion of the municipal energy sales and use tax in December 2008 after adjusting for growth;
- provides definitions; and
- makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:****10-1-307**, as last amended by Chapters 253 and 352, Laws of Utah 2006

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*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **10-1-307** is amended to read:**10-1-307. Collection of taxes by commission -- Distribution of revenues -- Charge**

**for services -- Collection of taxes by municipality.**

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

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

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

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

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

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

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

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

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

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

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

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

(a) the municipality is the energy supplier; or

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

59 and

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

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

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

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

68 (i) "2005 base amount" means, for a municipality that imposes a municipal energy  
69 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to  
70 the municipality for fiscal year 2005.

71 (ii) "2006 base amount" means, for a municipality that imposes a municipal energy  
72 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to  
73 the municipality for fiscal year 2006, reduced by the 2006 rebate amount.

74 (iii) "2006 growth estimate" means the three-year average of the United States Census  
75 Bureau's population estimate for a municipality for calendar years 2004, 2005, and 2006.

76 (iv) "2006 growth percentage" means:

77 (A) 14%, for a municipality whose 2006 growth estimate is equal to or greater than  
78 10%;

79 (B) 12%, for a municipality whose 2006 growth estimate is 5% or greater but less than  
80 10%; and

81 (C) 10%, for a municipality whose 2006 growth estimate is less than 5%.

82 ~~[(iii)]~~ (v) "2006 rebate amount" means, for a municipality that imposes a municipal  
83 energy sales and use tax, the difference between:

84 (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the  
85 municipality for fiscal year 2006; and

86 (B) the 2005 base amount, plus:

87 (I) 10% of the 2005 base amount; and

88 (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the  
89 municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy

sales and use tax implemented by the municipality during fiscal year 2006.

(vi) "2007 base amount" means, for a municipality that imposes a municipal energy sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007, reduced by the 2007 rebate amount.

~~[(iv)]~~ (vii) "2007 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:

(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007; and

(B) the 2006 base amount, plus:

(I) 10% of the 2006 base amount; and

(II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2007.

(viii) "2008 rebate amount" means, for a municipality that imposes a municipal energy sales and use tax, the difference between:

(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2008; and

(B) the 2007 base amount, plus:

(I) a percentage of the 2007 base amount equal to the 2006 growth percentage; and

(II) the natural gas portion of municipal energy sales and use tax proceeds paid to the municipality for fiscal year 2008 attributable to an increase in the rate of the municipal energy sales and use tax implemented by the municipality during fiscal year 2008.

~~[(v)]~~ (ix) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30, 2005.

~~[(vi)]~~ (x) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30, 2006.

~~[(vii)]~~ (xi) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30, 2007.

~~[(viii)]~~ (xii) "Gas supplier" means an energy supplier that supplies natural gas.

~~[(ix)]~~ (xiii) "Natural gas portion" means the amount of municipal energy sales and use tax proceeds attributable to sales and uses of natural gas.

(b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate amount.

(ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2006 rebate amount is exhausted.

(iii) For December 2006 and for each month thereafter that the gas supplier is required under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:

(A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas portion of municipal energy sales and use tax proceeds by the same amount as the reduction to the municipality; and

(B) each gas supplier shall reduce the municipal energy sales and use tax rate applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by the municipality.

(c) (i) In December 2007, each gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate amount.

(ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality each month thereafter until the 2007 rebate amount is exhausted.

(iii) For December 2007 and for each month thereafter that the gas supplier is required under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use tax proceeds to be paid to a municipality:

(A) each municipality imposing a municipal energy sales and use tax shall provide the gas supplier with the amount by which its municipal energy sales and use tax rate applicable to the sales and uses of natural gas would need to be reduced in order to reduce the natural gas

152 portion of municipal energy sales and use tax proceeds by the same amount as the reduction to  
153 the municipality; and

154 (B) each gas supplier shall reduce the municipal energy sales and use tax rate  
155 applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by  
156 the municipality.

157 (d) (i) In December 2008, each gas supplier shall reduce the natural gas portion of  
158 municipal energy sales and use tax proceeds to be paid to a municipality by the 2008 rebate  
159 amount.

160 (ii) If the 2008 rebate amount exceeds the amount of the natural gas portion of  
161 municipal energy sales and use tax proceeds for December 2008, the gas supplier shall reduce  
162 the natural gas portion of municipal energy sales and use tax proceeds to be paid to a  
163 municipality each month thereafter until the 2008 rebate amount is exhausted.

164 (iii) For December 2008 and for each month thereafter that the gas supplier is required  
165 under Subsection (6)(d)(ii) to reduce the natural gas portion of municipal energy sales and use  
166 tax proceeds to be paid to a municipality:

167 (A) each municipality imposing a municipal energy sales and use tax shall provide the  
168 gas supplier with the amount by which its municipal energy sales and use tax rate applicable to  
169 the sales and uses of natural gas would need to be reduced in order to reduce the natural gas  
170 portion of municipal energy sales and use tax proceeds by the same amount as the reduction to  
171 the municipality; and

172 (B) each gas supplier shall reduce the municipal energy sales and use tax rate  
173 applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by  
174 the municipality.

175 ~~[(d)]~~ (e) Nothing in this Subsection (6) may be construed to require a reduction under  
176 Subsection (6)(b) ~~[or]~~, (c), or (d) if the rebate amount is zero or negative.

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Legislative Review Note  
as of 2-15-07 11:29 AM

Office of Legislative Research and General Counsel

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**H.B. 436 - Municipal Energy Sales and Use Tax Revisions**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill is not expected to impact FY 2008 and FY 2009. However, there could be an impact to local governments in future years dependent on changes in the price of natural gas.

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