

1 **MUNICIPAL ENERGY TAX RATE AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen G. Handy**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the municipal energy sales and use tax rates.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ adds definitions;
- 13 ▶ amends the municipal energy sales and use tax rates; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **10-1-203**, as last amended by Laws of Utah 2014, Chapter 189

22 **10-1-304**, as last amended by Laws of Utah 2012, Chapter 410

23 **10-1-305**, as last amended by Laws of Utah 1998, Chapter 180

24 **10-1-307**, as last amended by Laws of Utah 2011, Chapter 309

25 **63H-1-204**, as enacted by Laws of Utah 2013, Chapter 362

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



28 Section 1. Section **10-1-203** is amended to read:

29 **10-1-203. License fees and taxes -- Application information to be transmitted to**
30 **the county assessor.**

31 (1) As used in this section:

32 (a) "Business" means any enterprise carried on for the purpose of gain or economic
33 profit, except that the acts of employees rendering services to employers are not included in
34 this definition.

35 (b) "Telecommunications provider" is as defined in Section [10-1-402](#).

36 (c) "Telecommunications tax or fee" is as defined in Section [10-1-402](#).

37 (2) Except as provided in Subsections (3) through (5), the legislative body of a
38 municipality may license for the purpose of regulation and revenue any business within the
39 limits of the municipality and may regulate that business by ordinance.

40 (3) (a) The legislative body of a municipality may raise revenue by levying and
41 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
42 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
43 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
44 Energy Sales and Use Tax Act.

45 (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined
46 in Subsection [10-1-303\(6\)](#), that is in effect on July 1, 1997, or a future franchise.

47 (ii) A franchise agreement as defined in Subsection [10-1-303\(6\)](#) in effect on January 1,
48 1997, or a future franchise shall remain in full force and effect.

49 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
50 agreement as defined in Subsection [10-1-303\(6\)](#) with an energy supplier that is in effect on July
51 1, 1997, may continue to collect that fee as provided in Subsection [10-1-310\(2\)](#).

52 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
53 defined in Subsection [10-1-303\(6\)](#) between a municipality and an energy supplier may contain
54 a provision that:

55 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is
56 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

57 (B) imposes the contractual franchise fee on or after the day on which Part 3,
58 Municipal Energy Sales and Use Tax Act is:

59 (I) repealed, invalidated, or the ~~[maximum allowable rate]~~ rates provided in Section
60 10-1-305 ~~[is]~~ are reduced; and

61 (II) is not superseded by a law imposing a substantially equivalent tax.

62 (ii) A municipality may not charge a contractual franchise fee under the provisions
63 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise
64 fee or a tax on all energy suppliers.

65 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a
66 municipality may raise revenue by levying and providing for the collection of a municipal
67 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
68 Tax Act.

69 (b) A municipality may not levy or collect a telecommunications tax or fee on a
70 telecommunications provider except as provided in Part 4, Municipal Telecommunications
71 License Tax Act.

72 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by
73 levying and collecting a license fee or tax on:

74 (A) a parking service business in an amount that is less than or equal to:

75 (I) \$1 per vehicle that parks at the parking service business; or

76 (II) 2% of the gross receipts of the parking service business;

77 (B) a public assembly or other related facility in an amount that is less than or equal to
78 \$5 per ticket purchased from the public assembly or other related facility; and

79 (C) subject to the limitations of Subsections (5)(c) and (d):

80 (I) a business that causes disproportionate costs of municipal services; or

81 (II) a purchaser from a business for which the municipality provides an enhanced level
82 of municipal services.

83 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
84 levy or collect a license fee or tax on a public assembly or other related facility owned and
85 operated by another political subdivision other than a community development and renewal
86 agency without the written consent of the other political subdivision.

87 (b) As used in this Subsection (5):

88 (i) "Municipal services" includes:

89 (A) public utilities; and

90 (B) services for:

91 (I) police;

92 (II) fire;

93 (III) storm water runoff;

94 (IV) traffic control;

95 (V) parking;

96 (VI) transportation;

97 (VII) beautification; or

98 (VIII) snow removal.

99 (ii) "Parking service business" means a business:

100 (A) that primarily provides off-street parking services for a public facility that is
101 wholly or partially funded by public money;

102 (B) that provides parking for one or more vehicles; and

103 (C) that charges a fee for parking.

104 (iii) "Public assembly or other related facility" means an assembly facility that:

105 (A) is wholly or partially funded by public money;

106 (B) is operated by a business; and

107 (C) requires a person attending an event at the assembly facility to purchase a ticket.

108 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
109 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
110 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
111 under Subsection (5)(a)(i)(C)(I):

112 (A) the costs that constitute disproportionate costs; and

113 (B) the amounts that are reasonably related to the costs of the municipal services
114 provided by the municipality.

115 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
116 the costs of the municipal services provided by the municipality.

117 (d) (i) Before the legislative body of a municipality imposes a license fee on a
118 purchaser from a business for which it provides an enhanced level of municipal services under
119 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance
120 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

121 (A) the level of municipal services that constitutes the basic level of municipal services
122 in the municipality; and

123 (B) the amounts that are reasonably related to the costs of providing an enhanced level
124 of municipal services in the municipality.

125 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
126 the costs of providing an enhanced level of the municipal services.

127 (6) All license fees and taxes shall be uniform in respect to the class upon which they
128 are imposed.

129 (7) The municipality shall transmit the information from each approved business
130 license application to the county assessor within 60 days following the approval of the
131 application.

132 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
133 1994, imposing a business license fee on rental dwellings under this section shall be upheld
134 unless the business license fee is found to impose an unreasonable burden on the fee payer.

135 Section 2. Section **10-1-304** is amended to read:

136 **10-1-304. Municipality and military installation development authority may levy**
137 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**
138 **requirements -- Exemptions.**

139 (1) As used in this section:

140 (a) "Annexation" means an annexation to a municipality under Chapter 2, Part 4,
141 Annexation.

142 (b) "Annexing area" means an area that is annexed into a municipality.

143 (c) "Consumer price index" means the Consumer Price Index for All Urban Consumers
144 as published by the Bureau of Labor Statistics of the United States Department of Labor.

145 (d) "Large user rate" means a rate described in Subsection (3)(a)(ii) or (iii).

146 ~~[(+)]~~ (2) (a) Except as provided in Subsections ~~[(4) and (5)]~~ (6) and (7), a municipality
147 may levy a municipal energy sales and use tax on the sale or use of taxable energy within the
148 municipality:

149 (i) by ordinance as provided in Section 10-1-305; and

150 (ii) of up to ~~[6% of the delivered value of the taxable energy]~~ the rate established in
151 Subsection (3).

152 (b) Subject to Section [63H-1-203](#), the military installation development authority
153 created in Section [63H-1-201](#) may levy a municipal energy sales and use tax under this part
154 within a project area described in a project area plan adopted by the authority under Title 63H,
155 Chapter 1, Military Installation Development Authority Act, as though the authority were a
156 municipality.

157 (3) (a) Except as provided in Subsections (3)(b) and (c), the tax imposed under
158 Subsection (2) may not exceed the following rates:

159 (i) 6% of the delivered value of taxable energy for a taxpayer other than a taxpayer
160 described in Subsections (3)(a)(ii) and (iii);

161 (ii) \$0.2111 per MMBtu of natural gas consumed within the municipality by a taxpayer
162 that consumed an average of 500 or more MMBtu of natural gas per month at any single site
163 within the municipality during the previous calendar year; or

164 (iii) \$0.0037 per kWh of electricity consumed within the municipality by a taxpayer
165 that:

166 (A) received electric service at a voltage level of 42,000 or more volts at any single
167 point of delivery within the municipality during the previous calendar year; or

168 (B) registered a peak load of 1,000 kW or more at any single point of delivery within
169 the municipality more than once in the preceding 18 months.

170 (b) (i) On January 1 of each calendar year, the commission shall adjust the applicable
171 large user rate by adding to the applicable large user rate the lesser of:

172 (A) the amount calculated by multiplying the applicable large user rate for the previous
173 year by the percentage change during the previous calendar year in the consumer price index;

174 or

175 (B) the amount calculated by multiplying the applicable large user rate for the previous
176 year by 2%.

177 (ii) The large user rate as adjusted by Subsection (3)(b)(i) may not exceed 110% of the
178 applicable rate described in Subsection (3)(a)(ii) or (iii).

179 (c) If, as of January 1, 2015, a municipality imposed a municipal energy sales and use
180 tax of less than 6% of the delivered value of taxable energy, the municipality may not adopt a
181 large user rate unless:

182 (i) adoption of a large user rate generates municipal energy sales and use tax revenue

183 that is less than the current year's municipal energy sales and use tax revenue; or

184 (ii) the municipality complies with the notice and public hearing requirements

185 described in Section 59-2-919.

186 ~~[(2)]~~ (4) A municipal energy sales and use tax imposed under this part may be in
187 addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales
188 and Use Tax Act.

189 ~~[(3) (a) For purposes of this Subsection (3):]~~

190 ~~[(i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4,~~

191 ~~Annexation.]~~

192 ~~[(ii) "Annexing area" means an area that is annexed into a municipality.]~~

193 ~~[(b)]~~ (5) (a) (i) If, on or after May 1, 2000, a ~~[city or town]~~ municipality enacts or
194 repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall
195 take effect~~[-(A)]~~ on the first day of a calendar quarter~~[-and (B)]~~ that begins after a 90-day
196 period beginning on the date the commission receives notice meeting the requirements of
197 Subsection ~~[(3)(b)]~~ (5)(a)(ii) ~~[from the municipality].~~

198 (ii) The notice described in Subsection ~~[(3)(b)]~~ (5)(a)(i)~~[(B)]~~ shall state:

199 (A) that the ~~[city or town]~~ municipality will enact or repeal a tax or change the rate of a
200 tax under this part;

201 (B) the statutory authority for the tax described in Subsection ~~[(3)(b)]~~ (5)(a)(ii)(A);

202 (C) the effective date of the tax described in Subsection ~~[(3)(b)]~~ (5)(a)(ii)(A); and

203 (D) if ~~[the city or town]~~ a municipality enacts the tax or changes the rate of the tax
204 described in Subsection ~~[(3)(b)]~~ (5)(a)(ii)(A), the new rate of the tax.

205 ~~[(c)]~~ (b) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation
206 will result in a change in the rate of a tax under this part for an annexing area, the change shall
207 take effect~~[-(A)]~~ on the first day of a calendar quarter~~[-and (B)]~~ that begins after a 90-day
208 period beginning on the date the commission receives notice meeting the requirements of
209 Subsection ~~[(3)(c)]~~ (5)(b)(ii) from the municipality that annexes the annexing area.

210 (ii) The notice described in Subsection ~~[(3)(c)]~~ (5)(b)(i)~~[(B)]~~ shall state:

211 (A) that the annexation described in Subsection ~~[(3)(c)]~~ (5)(b)(i) will result in a change
212 in the rate of a tax under this part for the annexing area;

213 (B) the statutory authority for the tax described in Subsection ~~[(3)(c)]~~ (5)(b)(ii)(A);

214 (C) the effective date of the tax described in Subsection [~~(3)(c)~~] (5)(b)(ii)(A); and

215 (D) the new rate of the tax described in Subsection [~~(3)(c)~~] (5)(b)(ii)(A).

216 [~~(4)~~] (6) (a) Subject to Subsection [~~(4)~~] (6)(b), a sale or use of electricity within a

217 municipality is exempt from the tax authorized by this section if the sale or use is made under a

218 tariff adopted by the Public Service Commission of Utah only for purchase of electricity

219 produced from a new source of alternative energy, as defined in Section [59-12-102](#), as

220 designated in the tariff by the Public Service Commission of Utah.

221 (b) The exemption under Subsection [~~(4)~~] (6)(a) applies to the portion of the tariff rate

222 a customer pays under the tariff described in Subsection [~~(4)~~] (6)(a) that exceeds the tariff rate

223 under the tariff described in Subsection [~~(4)~~] (6)(a) that the customer would have paid absent

224 the tariff.

225 [~~(5)~~] (7) (a) A municipality may not levy a municipal energy sales and use tax within

226 any portion of the municipality that is within a project area described in a project area plan

227 adopted by the military installation development authority under Title 63H, Chapter 1, Military

228 Installation Development Authority Act.

229 (b) Subsection [~~(5)~~] (7)(a) does not apply to the military installation development

230 authority's levy of a municipal energy sales and use tax.

231 (8) (a) On or before the November 2020 interim meeting, the Revenue and Taxation

232 Interim Committee shall:

233 (i) study the tax rates imposed by this section;

234 (ii) receive a report from the commission on any enactment, repeal, or change in rate

235 for which a municipality provided a notice;

236 (iii) recommend whether legislation should be drafted to modify any provision of this

237 section; and

238 (iv) prepare any legislation that the Revenue and Taxation Interim Committee

239 recommends in accordance with Subsection (8)(a)(iii).

240 (b) The Revenue and Taxation Interim Committee shall complete the study described

241 in Subsection (8)(a) at least every five years.

242 Section 3. Section **10-1-305** is amended to read:

243 **10-1-305. Municipal energy sales and use tax ordinance provisions.**

244 Each municipal energy sales and use tax ordinance [~~under~~] described in Subsection

245 ~~10-1-304~~(1)(2) shall include:

246 (1) a provision imposing a tax on every sale or use of taxable energy made within a
247 municipality at a rate determined by the municipality that is up to ~~[6% of the delivered value of~~
248 ~~the taxable energy]~~ the rates established in Section 10-1-304;

249 (2) provisions substantially the same as those required by Title 59, Chapter 12, Part 1,
250 Tax Collection, as they relate to sales and use tax, except that:

251 (a) in accordance with Section 10-1-304, the tax shall be calculated on the consumer's
252 delivered value or consumption of the taxable energy ~~[to the consumer];~~

253 (b) an exemption is not allowed from a tax imposed under this part for the sale or use
254 of taxable energy that is exempt from the state sales and use tax under Title 59, Chapter 12,
255 Part 1, Tax Collection, except that the municipality shall include in its ordinance an exemption
256 for:

257 (i) the sales and use of aviation fuel, motor fuel, or special fuel subject to taxation
258 under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

259 (ii) the sales and use of taxable energy that the municipality is prohibited from taxing
260 under federal law or the Constitution of the United States or the Utah Constitution;

261 (iii) the sales and use of taxable energy purchased or stored in the state for resale;

262 (iv) the sales or use of taxable energy to a person if the primary use is for use in
263 compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter
264 13, Motor and Special Fuel Tax Act;

265 (v) taxable energy brought into the state by a nonresident for the nonresident's own
266 personal use or enjoyment while within the state, except taxable energy purchased for use in
267 the state by a nonresident living or working in the state at the time of purchase;

268 (vi) the sales or use of taxable energy for any purpose other than use as a fuel or
269 energy; and

270 (vii) the sale of taxable energy for use outside a municipality imposing a municipality
271 energy sales and use tax;

272 (c) the ordinance may provide for an exemption from the municipal energy sales and
273 use tax under this part for customers who, as of July 1, 1997, were being supplied electrical
274 energy by a supplier other than the municipality if:

275 (i) the municipality is a generator of electrical energy for customers within its borders;

276 and

277 (ii) the municipality is unable to generate electrical energy for the customer;

278 (d) the name of the municipality as the taxing agency shall be substituted for that of the
279 state when necessary for purposes of this part; and

280 (e) an additional license to collect the tax is not required if one has been issued under
281 Section 59-12-106;

282 (3) a provision that, on or before the effective date of the ordinance, the municipality
283 shall enter into a contract with the commission to have the commission perform all functions
284 related to the administration or operation of the ordinance, except that a municipality may
285 collect the municipal energy sales and use tax directly as provided in Subsection 10-1-307(3);

286 (4) a provision that:

287 (a) except as provided under Subsection (4)(b), the sale, storage, use, or other
288 consumption of taxable energy is exempt from the tax due under the ordinance if [~~the delivered~~
289 ~~value of~~] the taxable energy has been subject to a municipal energy sales or use tax under an
290 ordinance enacted in accordance with this part by another municipality in this state; and

291 (b) the municipality shall be paid the difference between the tax paid to another
292 municipality as described in this section and the tax that would otherwise be due under the
293 ordinance if the tax due under the ordinance exceeds the tax paid to another municipality; and

294 (5) a provision providing a credit against the tax in the amount of a contractual
295 franchise fee paid if:

296 (a) an energy supplier pays a contractual franchise fee to a municipality pursuant to a
297 franchise agreement in effect on July 1, 1997;

298 (b) the contractual franchise fee is passed through by the energy supplier to a taxpayer
299 as a separately itemized charge; and

300 (c) the energy supplier has accepted the franchise; and

301 (6) a provision providing that the ordinance adopts by reference any amendments to the
302 provisions of Title 59, Chapter 12, Part 1, Tax Collection, that relate to levying or collecting a
303 municipal energy sales and use tax.

304 Section 4. Section 10-1-307 is amended to read:

305 **10-1-307. Administration, collection, and enforcement of taxes by commission --**
306 **Distribution of revenues -- Administrative charge -- Collection of taxes by municipality.**

307 (1) (a) Subject to Subsection (1)(b) and except as provided in Subsection (3), the
308 commission shall administer, collect, and enforce the municipal energy sales and use tax from
309 energy suppliers according to the procedures established in:

310 (i) Title 59, Chapter 1, General Taxation Policies; and

311 (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections 59-12-107.1 and
312 59-12-123.

313 (b) If an energy supplier pays a municipal energy sales and use tax to the commission,
314 the energy supplier shall pay the municipal energy sales and use tax to the commission:

315 (i) monthly on or before the last day of the month immediately following the last day of
316 the previous month if:

317 (A) the energy supplier is required to file a sales and use tax return with the
318 commission monthly under Section 59-12-108; or

319 (B) the energy supplier is not required to file a sales and use tax return under Title 59,
320 Chapter 12, Sales and Use Tax Act; or

321 (ii) quarterly on or before the last day of the month immediately following the last day
322 of the previous quarter if the energy supplier is required to file a sales and use tax return with
323 the commission quarterly under Section 59-12-108.

324 (2) (a) Except as provided in Subsections 10-1-203(3)(d), 10-1-305(5), and
325 10-1-310(2) [~~and subject to Subsection (6)~~], the commission shall pay a municipality the
326 difference between:

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

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

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

333 (ii) the administrative charge described in Subsection (2)(c).

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

337 (c) (i) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an

338 administrative charge in accordance with Section 59-1-306 from revenues the commission
339 collects from a municipal energy sales and use tax under this part.

340 (ii) The commission may not retain or deposit an administrative charge from revenues
341 a municipality collects under Subsection (3) from a tax under this part.

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

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

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

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

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

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

356 [~~(6) (a) As used in this Subsection (6):~~]

357 [~~(i) "2005 base amount" means, for a municipality that imposes a municipal energy
358 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to
359 the municipality for fiscal year 2005.~~]

360 [~~(ii) "2006 base amount" means, for a municipality that imposes a municipal energy
361 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to
362 the municipality for fiscal year 2006, reduced by the 2006 rebate amount.~~]

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

365 [~~(A) the natural gas portion of municipal energy sales and use tax proceeds paid to the
366 municipality for fiscal year 2006; and~~]

367 [~~(B) the 2005 base amount, plus:~~]

368 [~~(1) 10% of the 2005 base amount; and~~]

369 ~~[(H) the natural gas portion of municipal energy sales and use tax proceeds paid to the~~
370 ~~municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy~~
371 ~~sales and use tax implemented by the municipality during fiscal year 2006.]~~

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

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

376 ~~[(B) the 2006 base amount, plus:]~~

377 ~~[(F) 10% of the 2006 base amount; and]~~

378 ~~[(H) the natural gas portion of municipal energy sales and use tax proceeds paid to the~~
379 ~~municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy~~
380 ~~sales and use tax implemented by the municipality during fiscal year 2007.]~~

381 ~~[(v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,~~
382 ~~2005.]~~

383 ~~[(vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,~~
384 ~~2006.]~~

385 ~~[(vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,~~
386 ~~2007.]~~

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

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

390 ~~[(b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of~~
391 ~~municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate~~
392 ~~amount:]~~

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

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

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

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

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

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

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

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

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

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

428 Section 5. Section **63H-1-204** is amended to read:

429 **63H-1-204. MIDA energy tax.**

430 (1) By ordinance, an authority board may levy a MIDA energy tax, within a project

431 area, on an energy supplier as defined in Section 10-1-303.

432 (2) The maximum rate of the MIDA energy tax is 6% of the delivered value as defined
433 in Section 10-1-303, except that delivered value does not include the amount of a tax paid
434 under this section.

435 (3) (a) An energy supplier may recover an amount equal to the MIDA energy tax from
436 its customers, if the energy supplier includes the amount as a separate billing line item.

437 (b) The MIDA energy tax levied under this section is in addition to the rate approved
438 by the Public Service Commission and charged to the customer.

439 (4) If the authority has levied a municipal energy tax in the project area, the MIDA
440 energy tax paid by a customer is reduced by any municipal energy tax paid by that customer on
441 the same [~~delivered value~~] taxable energy.

442 (5) (a) The MIDA energy tax is payable by the energy supplier to MIDA on a monthly
443 basis as described by the ordinance levying the tax.

444 (b) The ordinance shall allow the energy supplier to retain 1% of the tax remittance
445 each month to offset the energy supplier's costs of collecting and remitting the tax.

Legislative Review Note
Office of Legislative Research and General Counsel