

## HB0145S02 compared with HB0145S01

~~deleted text~~ shows text that was in HB0145S01 but was deleted in HB0145S02.

inserted text shows text that was not in HB0145S01 but was inserted into HB0145S02.

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Representative Stephen G. Handy proposes the following substitute bill:

### MUNICIPAL ENERGY TAX RATE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

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

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

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

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

None

##### Utah Code Sections Affected:

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AMENDS:

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July

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1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) a purchaser from a business for which the municipality provides an enhanced level

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of municipal services.

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

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

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

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

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

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

(C) that charges a fee for parking.

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

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

(B) is operated by a business; and

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

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

(A) the costs that constitute disproportionate costs; and

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers

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as published by the Bureau of Labor Statistics of the United States Department of Labor.

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

(e) "Single point of delivery" means the point at which a utility's transmission facilities are connected to a wire or apparatus owned by an end-use customer to enable that customer to receive electrical service from the utility.

(f) "Single site" means properties or facilities:

(i) that use natural gas delivered through one or more gas meters located on contiguous property within a single municipality; and

(ii) owned, leased, or operated by a single customer or the customer's affiliates or tenants.

(~~f~~g) "~~Single point of delivery" means the point at which a utility's transmission facilities are connected to wires or apparatus owned by an end-use customer to enable that customer to receive electrical service from the utility;~~ Transportation tariff" means a schedule or tariff that applies when a utility delivers natural gas owned by a taxpayer, or purchased by a taxpayer on the open market, to the taxpayer's facility for consumption.

(~~1~~) (2) (a) Except as provided in Subsections [~~(4) and (5)] (6) and (7), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:~~

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

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

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

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

(i) (A) before the first day of the first billing period that begins on or after January 1, 2017, 6% of the delivered value of taxable energy for a taxpayer; and

(B) on or after the first day of the first billing period that begins on or after January 1,

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2017, 6% of the delivered value of taxable energy for a taxpayer other than a taxpayer described in ~~{Subsections}~~ Subsection (3)(a)(ii) ~~{and}~~, (iii), or (iv);

(ii) beginning on the first day of the first billing period that begins on or after January 1, 2017, \$0.2111 per MMBtu of natural gas consumed within the municipality by a taxpayer that is annually determined on January 1 to have consumed an average of 500 or more MMBtu of natural gas per month at any single site within the municipality during the previous calendar year ~~{; or~~

~~(iii), if the taxpayer received more than half of the natural gas consumed under a transportation tariff; or~~

~~(iii) beginning on the first day of the first billing period that begins on or after January 1, 2017, \$0.0037 per kWh of electricity consumed within the municipality by a taxpayer that is annually determined on January 1 to have received electric service at a voltage level of 42,000 or more volts at any single point of delivery within the municipality during the previous calendar year; or~~

(iv) beginning on the first day of the first billing period that begins on or after January 1, 2017, \$0. ~~{0037}~~ 0045 per kWh of electricity consumed within the municipality by a taxpayer that is:

(A) not a taxpayer described in Subsection (3)(a)(iii); and

(B) annually determined on January 1 to have ~~{; or~~

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

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

(b) Beginning on the first day of the first billing period that begins on or after January 1, 2017, unless the municipality enacts or repeals a tax or changes the rate of a tax imposed under this part, the rate of the municipal energy sales and use tax imposed on the sale or use of taxable energy shall be as follows:

(i) for a taxpayer other than a taxpayer described in ~~{Subsections}~~ Subsection (3)(a)(ii) ~~{and}~~, (iii), or (iv), the rate imposed by the municipality ~~{as of}~~ on December 31, 2016; and

(ii) for a taxpayer described in ~~{Subsections}~~ Subsection (3)(a)(ii) ~~{and}~~, (iii), or (iv), a

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rate calculated ~~as follows~~ by:

(A) ~~dividing the rate imposed by~~ the municipality ~~shall determine the proportion of~~ ~~the rate described in Subsection (3)(b)(i) as compared to a rate of~~ ~~on December 31, 2016, by~~ 6%; and

(B) ~~multiply~~ multiplying the ~~proportion determined under~~ figure calculated in Subsection (3)(b)(ii)(A) ~~and~~ by the applicable maximum large user rate ~~specified~~ described in Subsection (3)(a)(ii), (iii), or (iii)iv).

(c) (i) On March 1 of each calendar year, the commission shall adjust the maximum large user rates described in Subsections (3)(a)(ii), (iii), and (iii)iv by adding to the rates the lesser of:

(A) the amount calculated by multiplying the maximum large user rate for the previous year by the percentage change during the previous calendar year in the ~~Consumer Price Index~~ consumer price index; or

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

(ii) The large user rate as adjusted by Subsection (3)(c)(i) may not exceed 110% of the maximum large user rate specified in Subsection (3)(a)(ii), (iii), or (iii)iv before an adjustment under this Subsection (3)(c).

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

~~(3)(a)~~ For purposes of this Subsection (3):

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

~~(ii)~~ "Annexing area" means an area that is annexed into a municipality;

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

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

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

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

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

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

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

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

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

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

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

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

~~[(4)]~~ (6) (a) Subject to Subsection ~~[(4)]~~ (6)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.

(b) The exemption under Subsection ~~[(4)]~~ (6)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection ~~[(4)]~~ (6)(a) that exceeds the tariff rate under the tariff described in Subsection ~~[(4)]~~ (6)(a) that the customer would have paid absent the tariff.

~~[(5)]~~ (7) (a) A municipality may not levy a municipal energy sales and use tax within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

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

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

(8) (a) On or before the November 2021 interim meeting, the Revenue and Taxation Interim Committee shall:

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

(ii) receive a report from the commission on any enactment, repeal, or change in rate for which a municipality provided a notice;

(iii) recommend whether legislation should be drafted to modify any provision of this section; and

(iv) prepare any legislation that the Revenue and Taxation Interim Committee recommends in accordance with Subsection (8)(a)(iii).

(b) The Revenue and Taxation Interim Committee shall complete the study described in Subsection (8)(a) at least every five years.

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

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

Each municipal energy sales and use tax ordinance [~~under~~] described in Subsection 10-1-304[~~(1)~~](2) shall include:

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

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

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

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

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

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

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- (iii) the sales and use of taxable energy purchased or stored in the state for resale;
  - (iv) the sales or use of taxable energy to a person if the primary use is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13, Motor and Special Fuel Tax Act;
  - (v) taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;
  - (vi) the sales or use of taxable energy for any purpose other than use as a fuel or energy; and
  - (vii) the sale of taxable energy for use outside a municipality imposing a municipality energy sales and use tax;
- (c) the ordinance may provide for an exemption from the municipal energy sales and use tax under this part for customers who, as of July 1, 1997, were being supplied electrical energy by a supplier other than the municipality if:
- (i) the municipality is a generator of electrical energy for customers within its borders; and
  - (ii) the municipality is unable to generate electrical energy for the customer;
- (d) the name of the municipality as the taxing agency shall be substituted for that of the state when necessary for purposes of this part; and
- (e) an additional license to collect the tax is not required if one has been issued under Section 59-12-106;
- (3) a provision that, on or before the effective date of the ordinance, the municipality shall enter into a contract with the commission to have the commission perform all functions related to the administration or operation of the ordinance, except that a municipality may collect the municipal energy sales and use tax directly as provided in Subsection 10-1-307(3);
- (4) a provision that:
- (a) except as provided under Subsection (4)(b), the sale, storage, use, or other consumption of taxable energy is exempt from the tax due under the ordinance if [~~the delivered value of~~] the taxable energy has been subject to a municipal energy sales or use tax under an ordinance enacted in accordance with this part by another municipality in this state; and
  - (b) the municipality shall be paid the difference between the tax paid to another

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municipality as described in this section and the tax that would otherwise be due under the ordinance if the tax due under the ordinance exceeds the tax paid to another municipality; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the energy supplier is required to file a sales and use tax return with

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the commission quarterly under Section 59-12-108.

(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 administrative charge described in 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) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a municipal energy sales and use tax under this part.

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

(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; and

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

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

(5) An energy supplier paying the tax under this part directly to a municipality shall file

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an information return with the commission, at least annually, on a form prescribed by the commission.

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

~~[(i) "2005 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 2005.]~~

~~[(ii) "2006 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 2006, reduced by the 2006 rebate amount.]~~

~~[(iii) "2006 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 2006, and]~~

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

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

~~[(H) the natural gas portion of municipal energy sales and use tax proceeds paid to the 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.]~~

~~[(iv) "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]~~

~~[(H) 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.]~~

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

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

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

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

~~[(ix) "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~~

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~~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 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.]~~

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

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

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

(1) By ordinance, an authority board may levy a MIDA energy tax, within a project area, on an energy supplier as defined in Section 10-1-303.

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

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

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

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

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

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