

METRO TOWNSHIP AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to metro townships.

Highlighted Provisions:

This bill:

- ▶ allows a metro township to impose a municipal energy sales and use tax or a municipal telecommunication's license tax; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-402, as last amended by Laws of Utah 2008, Chapter 384

10-3c-204, as enacted by Laws of Utah 2015, Chapter 352

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

Section 1. Section **10-1-402** is amended to read:

10-1-402. Definitions.

As used in this part:



- 28 (1) "Commission" means the State Tax Commission.
- 29 (2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is
30 obligated under a contract with a telecommunications provider to pay for telecommunications
31 service received under the contract.
- 32 (b) For purposes of this section and Section 10-1-407, "customer" means:
- 33 (i) the person who is obligated under a contract with a telecommunications provider to
34 pay for telecommunications service received under the contract; or
- 35 (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of
36 telecommunications service.
- 37 (c) "Customer" does not include a reseller:
- 38 (i) of telecommunications service; or
- 39 (ii) for mobile telecommunications service, of a serving carrier under an agreement to
40 serve the customer outside the telecommunications provider's licensed service area.
- 41 (3) (a) "End user" means the person who uses a telecommunications service.
- 42 (b) For purposes of telecommunications service provided to a person who is not an
43 individual, "end user" means the individual who uses the telecommunications service on behalf
44 of the person who is provided the telecommunications service.
- 45 (4) (a) "Gross receipts from telecommunications service" means the revenue that a
46 telecommunications provider receives for telecommunications service rendered except for
47 amounts collected or paid as:
- 48 (i) a tax, fee, or charge:
- 49 (A) imposed by a governmental entity;
- 50 (B) separately identified as a tax, fee, or charge in the transaction with the customer for
51 the telecommunications service; and
- 52 (C) imposed only on a telecommunications provider;
- 53 (ii) sales and use taxes collected by the telecommunications provider from a customer
54 under Title 59, Chapter 12, Sales and Use Tax Act; or
- 55 (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a
56 customer for failure to pay for telecommunications service when payment is due.
- 57 (b) "Gross receipts from telecommunications service" includes a charge necessary to
58 complete a sale of a telecommunications service.

59 (5) "Mobile telecommunications service" is as defined in the Mobile
60 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

61 [~~(6)~~] "~~Municipality~~" means a city or town.

62 [~~(7)~~] (6) "Place of primary use":

63 (a) for telecommunications service other than mobile telecommunications service,
64 means the street address representative of where the customer's use of the telecommunications
65 service primarily occurs, which shall be:

66 (i) the residential street address of the customer; or

67 (ii) the primary business street address of the customer; or

68 (b) for mobile telecommunications service, is as defined in the Mobile
69 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

70 [~~(8)~~] (7) Notwithstanding where a call is billed or paid, "service address" means:

71 (a) if the location described in this Subsection [~~(8)~~] (7)(a) is known, the location of the
72 telecommunications equipment:

73 (i) to which a call is charged; and

74 (ii) from which the call originates or terminates;

75 (b) if the location described in Subsection [~~(8)~~] (7)(a) is not known but the location
76 described in this Subsection [~~(8)~~] (7)(b) is known, the location of the origination point of the
77 signal of the telecommunications service first identified by:

78 (i) the telecommunications system of the telecommunications provider; or

79 (ii) if the system used to transport the signal is not a system of the telecommunications
80 provider, information received by the telecommunications provider from its service provider;

81 or

82 (c) if the locations described in Subsection [~~(8)~~] (7)(a) or (b) are not known, the
83 location of a customer's place of primary use.

84 [~~(9)~~] (8) (a) Subject to Subsections [~~(9)~~] (8)(b) and [~~(9)~~] (8)(c), "telecommunications
85 provider" means a person that:

86 (i) owns, controls, operates, or manages a telecommunications service; or

87 (ii) engages in an activity described in Subsection [~~(9)~~] (8)(a)(i) for the shared use with
88 or resale to any person of the telecommunications service.

89 (b) A person described in Subsection [~~(9)~~] (8)(a) is a telecommunications provider

90 whether or not the Public Service Commission of Utah regulates:

91 (i) that person; or

92 (ii) the telecommunications service that the person owns, controls, operates, or
93 manages.

94 (c) "Telecommunications provider" does not include an aggregator as defined in
95 Section 54-8b-2.

96 ~~[(10)]~~ (9) "Telecommunications service" means:

97 (a) telecommunications service, as defined in Section 59-12-102, other than mobile
98 telecommunications service, that originates and terminates within the boundaries of this state;

99 (b) mobile telecommunications service, as defined in Section 59-12-102:

100 (i) that originates and terminates within the boundaries of one state; and

101 (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4
102 U.S.C. Sec. 116 et seq.; or

103 (c) an ancillary service as defined in Section 59-12-102.

104 ~~[(11)]~~ (10) (a) Except as provided in Subsection ~~[(11)]~~ (10)(b), "telecommunications
105 tax or fee" means any of the following imposed by a municipality on a telecommunications
106 provider:

107 (i) a tax;

108 (ii) a license;

109 (iii) a fee;

110 (iv) a license fee;

111 (v) a license tax;

112 (vi) a franchise fee; or

113 (vii) a charge similar to a tax, license, or fee described in Subsections ~~[(11)]~~ (10)(a)(i)
114 through (vi).

115 (b) "Telecommunications tax or fee" does not include:

116 (i) the municipal telecommunications license tax authorized by this part; or

117 (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and
118 Taxation, that is imposed:

119 (A) on telecommunications providers; and

120 (B) on persons who are not telecommunications providers.

121 Section 2. Section **10-3c-204** is amended to read:

122 **10-3c-204. Taxing authority.**

123 (1) A metro township may ~~[not]~~ impose:

124 (a) a municipal energy sales and use tax ~~[as described]~~ in accordance with Chapter 1,
125 Part 3, Municipal Energy Sales and Use Tax Act; or

126 (b) a municipal telecommunication's license tax ~~[as described]~~ in accordance with
127 Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

128 (2) (a) If the electors at an election under Section **10-2a-404** chose a metro township
129 that is included in a municipal services district and has limited municipal powers, or a metro
130 township subsequently joins a municipal services district, the metro township may not levy or
131 impose a tax unless the Legislature expressly provides that the metro township may levy or
132 impose the tax.

133 (b) Subsection (2)(a) does not apply if a municipal services district is dissolved.