

MINUTES OF THE HOUSE COMMITTEE ON TAXATION

The meeting was called to order by the Chairman at 9:00 a.m. February 12, 2001 in Room 519-S of the Capitol.

All members were present except: Representative Flora, excused
Representative Howell, excused

Committee staff present: Chris Courtwright, Legislative Research Department
April Holman, Legislative Research Department
Don Hayward, Revisor
Winnie Crapson, Secretary

Conferees appearing before the committee: Representative Sloan

Others attending: See attached list.

The Chairman opened the meeting by asking for bill introductions.

By unanimous consent bill will be introduced to request sales tax exemption cutting tools used in manufacturing.

The Chairman appointed as a Subcommittee Representative Vickrey, Chair, Representative L. Powell and Representative Kirk to consider HB 2092 - City and County development activity excise tax act.

Hearing was opened on:

HB 2266 - Independent power producers, coal-fired generation; exemption from regulation; bonds for pollution control devices; property tax.

Representative Sloan presented testimony in support of HB 2266 (Attachment #1) and responded to questions from members of the Committee.

Hearing on HB 2266 was closed.

Hearing was opened on:

HB 2268 - Electric public utilities, coal-fired generation; construction work in progress bonds for pollution control; property tax exemption.

Representative Sloan referred to testimony contained in Attachment #1 relating to HB 2268. He responded to questions from members of the Committee.

Hearing on HB 2268 was closed.

The Committee took under consideration HB 2245 on which hearing was held on February 7.

Representative Mays moved that HB 2245 be reported favorable for passage. Representative L. Powell seconded and motion was adopted.

CONTINUATION SHEET

The Committee took under consideration **HB 2266** on which hearing was held today.

Representative T. Powell moved that **HB 2266** be reported favorable for passage. Representative Sharp seconded and motion was adopted.

The Committee took under consideration **HB 2268** on which hearing was held today.

Representative Sharp moved that **HB 2268** be reported favorable for passage. Representative T. Powell seconded and motion was adopted.

The Committee took under consideration **HB 2008** on which hearing was held on January 29.

Representative Larkin moved that **HB 2008** be reported favorable for passage. Representative Osborne seconded and motion was adopted.

The Committee took under consideration **HB 2009** on which hearing was held on January 29.

Representative Larkin moved that **HB 2009** be reported favorable for passage. Representative Gatewood seconded and motion was adopted.

The Committee took under consideration **HB 2007** on which hearing was held on February 8.

The Chairman distributed balloon containing three changes to **HB 2007**.

Representative Larkin moved to amend **HB 2007** by inclusion of balloon. Representative Sharp seconded and motion was adopted.

Representative Findley moved that **HB 2007** as amended be reported favorable for passage. Representative T. Powell seconded and motion was adopted.

The meeting adjourned at 9:28 a.m. The next scheduled meeting is February 13.

HOUSE TAXATION COMMITTEE

GUEST LIST

DATE Feb. 12, 2001

NAME	REPRESENTING
Tom Bruno	GBBA
GEORGE PETERSEN	KS TAXPAYERS NETWORK
BRUCE GRAHAM	ICEPCO
JC Long	UtiliCorp United Inc.
Richard Egan	KDOR
Patrick Ashurley	KESR
Ann Dukes	DOB
Vally Kuitala	City of Overland Park
Julie Heim	Flem & Weir
Rhett Kuttinal	K100A

TOM SLOAN
 REPRESENTATIVE, 45TH DISTRICT
 DOUGLAS COUNTY

COMMITTEE ASSIGNMENTS
 VICE-CHAIR: UTILITIES
 MEMBER: ENVIRONMENT
 HIGHER EDUCATION
 KANSAS FUTURES

STATE CAPITOL BUILDING
 ROOM 446-N
 TOPEKA, KANSAS 66612-1504
 (785) 296-7677
 1-800-432-3924



TOPEKA

772 HWY 40
 LAWRENCE, KANSAS 66049-4174
 (785) 841-1526

HOUSE OF
 REPRESENTATIVES

Testimony on
HB 2266 and HB 2268
 House Committee on Taxation
 February 12, 2001

Mr. Chairman and Committee Members., I appreciate the opportunity to appear before you and explain why the Utilities Committee introduced House Bill 2266 and House Bill 2268. As I explained last week, when I testified on House Bill 2245, the Utilities Committee members are attempting to address the state's long term energy needs and supply.

Kansas has traditionally been a net energy exporter. Our oil, natural gas, and electricity production exports have steadily declined as the oil and gas resources are depleted and state consumers' demand for electricity approaches in-state generation capacity. While there are some incentives that we can address to minimally stimulate oil and natural gas production, the reality is that we literally are physically running out of oil and gas after 80 plus years of production. The fact that several interstate natural gas pipeline companies are planning to construct pipelines to 'move' gas from the Laramie, Wyoming area to Kansas is a very strong indicator that our petroleum-based energy supply is terminal.

Only in the realm of electric production can State action significantly stimulate production. No large-scale generation facility has been built in Kansas in sixteen years. While two small "peaking" units were constructed in Sedgwick County, larger plants are being constructed by Kansas based utilities, or their affiliates, in Missouri and Oklahoma. A Kansas City-area utility's affiliate is constructing large power plants in Mississippi and Illinois.

Electricity is a commodity that is both traded in the financial marketplace and 'transported' long distances across state lines. Thus, the construction of such capacity can be located many miles from the ultimate consumer of the power generated. Creating the appropriate mix of incentives is key to securing corporate and financial community investments in power plants in Kansas that will have at least forty years of operation, employment, and contribution to the tax base.

As I explained last week, House Bill 2245 creates incentives for the generation of electricity from renewable resources. The U.S. Department of Energy concludes that Kansas has the third greatest potential to generate electricity from wind. While this is extremely good news and has the potential for rural residents and landowners to either generate their own electricity or to lease ground to commercial wind, biomass, or other "green" generators, it most likely will not result in Kansas' self sufficiency in electricity.

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To that end, House Bill 2266 and House Bill 2268 were introduced. It takes both bills because of the nature of the nationally deregulated, wholesale electric business. The Kansas Constitution requires that utility properties be assessed and taxed on the basis of thirty-three percent valuation. Electric utilities in Kansas generally are vertically integrated. This means that production, transmission, and distribution of electricity within a certificated territory is owned by the same company. For example, Western Resources owns most of the Jeffrey Energy Center, the transmission lines that bring the power to the Topeka city limits, and the distribution lines that deliver electricity to the state Capitol.

Nationally, almost all new power plants constructed in the past ten years have been "merchant plants." These are electric generation plants that sell only wholesale power and do not have retail customers. Such plants are generally not price regulated by states (they are under the jurisdiction of the Federal Energy Regulatory Commission {FERC}). Their investors assume all risks and power is sold to "traditional utilities" on either the spot or long-term contract basis.

The Kansas Attorney General has provided the chairman of the Utilities Committee a letter opining that, because merchant plants do not have retail customers and do not recover their investment through state regulated rates, they are not utilities for tax purposes.

House Bill 2266 seeks to codify that opinion, recognize that merchant generators would, therefore, be treated as all other commercial properties and be assessed and taxed on the basis of twenty-five percent of their value.

The eight percent reduction of potential property tax liability (33% to 25%) is viewed as an inducement for the construction of such plants in Kansas. Remember, this applies only to new coal-fire generation. No current tax dollars are lost. This alone is not sufficient to attract such investment, with the attendant energy self-sufficiency and employment opportunities. Mississippi reportedly is permitting a new merchant plant to pay only \$132,000 in lieu of taxes on a \$132 million plant.

The House Utilities Committee members do not believe such an extreme inducement is warranted or prudent for Kansas. Instead, House Bill 2266 offers a ten year exemption from property taxes for coal-fired plants; specifies that such plants are eligible for state-sponsored economic development programs; authorizes the Kansas Development Finance Authority to issue revenue bonds on behalf of, and in cooperation with, such companies for the purchase and installation of pollution control devices; and provides a ten year property tax exemption for new transmission lines of at least 345kv capacity. At the end of the ten year period, the merchant plant would be assessed and taxed on the same basis as other commercial business properties.

The House Utilities Committee does not want to provide an unfair competitive advantage to merchant plants at the expense of the traditionally regulated utilities. Hence, House Bill 2268 has been introduced to provide the proverbial 'level playing field' to the extent possible under the Kansas Constitution and FERC regulations.

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House Bill 2268 provides a ten year property tax exemption for new or upgraded coal-fired generation; the Kansas Development Finance Authority is authorized to issue revenue bonds for the purchase and installation of pollution control devices; and new transmission lines receive a ten year property tax exemption.

The Utilities Committee members believe that energy self-sufficiency is a very important part of ensuring the long term economic health of our state. Properly constructed and limited tax inducements are a critical component necessary to attract the hundreds of millions of dollars necessary to construct power plants.

Mr. Chairman, that concludes my formal comments. I will be pleased to respond to questions regarding the Utilities Committee's intent, energy issues, and the substance of House Bill 2266 and House Bill 2268.

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