

Approved: May 1, 2001

Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:12 a.m. on March 12, 2001 in Room 526-S of the Capitol.

All members were present except: Rep. Richard Alldritt
 Rep. Bonnie Huy
 Rep. Carl Krehbiel

Committee staff present: Lynne Holt, Legislative Research
 Mary Torrence, Revisor of Statutes
 Jo Cook, Committee Secretary

Conferees appearing before the committee: Sheldon Hamilton, UtiliCorp United
 Bruce Graham, Kansas Electric Power Cooperative, Inc.
 Steve Miller, Sunflower Electric
 Jim Ludwig, Western Resources

Others attending: See Attached List

HCR 5013 - Constitutional amendment decreasing the property tax assessment rate for public utility property to 25%

Chairman Holmes opened the hearing on **HCR 5013**.

Sheldon Hamilton, Property Tax Manager for UtiliCorp United, appeared in support of **HCR 5013 (Attachment 1)**. Mr. Hamilton explained that there are some industries subjected to the utility assessment statutes that are no longer regulated while others change so quickly the law cannot contemplate the type of services being offered. Mr. Hamilton included in his testimony a schedule that compares the property tax rates for UtiliCorp's Kansas divisions with those in neighboring states.

Bruce Graham, Vice President of Member Services & External Affairs for Kansas Electric Power Cooperative, Inc., addressed the committee in support of **HCR 5013 (Attachment 2)**. Mr. Graham stated that the impact of this proposed constitutional amendment would not be a reduction in revenue, but would be instead, a shift from one taxpayer to another. He asked that the committee take a comprehensive look at proposals by other states to reduce utility property tax burdens.

Sunflower Electric Power Corporation's Senior Manager for External Affairs, Steve Miller, testified in support of **HCR 5013 (Attachment 3)**. Mr. Miller stated that the change proposed in the Resolution would take all businesses back to a structure similar to that in 1992 where they were all taxed at the same rate.

Jim Ludwig, Senior Director for Regulatory Affairs at Western Resources, spoke to the committee in support of **HCR 5013 (Attachment 4)**. Mr. Ludwig questioned how the state would deal with erosion of the property tax base. He suggested that possible solutions could be establishing an energy charge to be collected from utility consumers by distribution utilities or to repeal the exemption of sales tax on residential utility usage. Either would change the distribution of tax revenues among the various taxing authorities of the state.

The conferees responded to questions from the committee. Also responding to committee questions, although not testifying, were Jack Glaves, on behalf of Duke Energy, and Cynthia Smith, on behalf of Kansas City Power & Light. Due to time constraints, the hearing on **HCR 5013** will be continued.

The meeting adjourned at 10:59 a.m.

The next meeting is scheduled for Tuesday, March 13, 2001.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: March 12, 2001

NAME	REPRESENTING
F.O. Long	UtiliCorp United
John Miles	KEC
Joe Duck	KCK BPU
Bruce GRAHAM	KEPCo
Sheldon HAMILTON	Util. Corp United, Inc.
Vh. Kinney	Private Citizen
Don Carlson	KDHE - Bureau of Water
Cy Ann Smith	KCP&L
Dave Holton	WR
Patrick & Hurley	KCP&L
Andy Allen	Butterberg & Assoc.
Larry Kleeman	League of KS Municipalities
Joe Sedage	NCKTC
Chris Teel	NCKTC Skills USA UICA
Sandy Braden	Haches, Braden, Barber & Assoc
Doug Lawrence	KEC
Mike Hein	Hein & Law
Mike Fleet	AT&T/KCP&L
Jim Ludwig	WESTERN RESOURCES
Jack Graves	Duke Energy

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: 3/12/01

NAME	REPRESENTING
Tom Day	KCC
Doug Smith	
Denny Koch	

Kansas House Utilities Committee
March 12, 2001

Mister chairman, and members of the Committee, my name is Sheldon Hamilton, I am the property tax manager for UtiliCorp United Inc. (UtiliCorp). UtiliCorp is pleased to appear and present comments in support of House Concurrent Resolution No. 5013.

UtiliCorp is primarily an energy services company, but is also involved in the competitive local exchange carrier (CLEC) business. It has annual sales of \$29 billion and is headquartered in Kansas City, Missouri. UtiliCorp pays Kansas about \$10,500,000 in property taxes through its regulated divisions, which are located in approximately 80 counties.

Kansas has a two-tiered property tax system for business property. Property defined as public utility property is assessed at 33 percent of market value, while other business property is assessed at 25 percent. Utility property appraisal statutes are different as well, and result in much higher values than commercial and industrial (C & I) statutes.

The attached spreadsheet illustrates this difference. A 600 mega-watt, merchant power plant would pay about \$55,000,000 more in property taxes over its useful life under the utility statutes than it would under the (C & I) statutes.

Some industries subject to the utility assessment statutes, such as airlines and long distance, are no longer regulated. Others have changed so quickly that the law simply does not contemplate the type of business services being offered.

For example, cable TV, Internet and telecommunication services can be offered over a single fiber-optic line at one price. Normally, cable TV and Internet service providers are taxed under the (C & I) statutes and telephone service providers under the utility statutes. Under current law, if these services are offered over the same cable, then all assets are subject to the higher utility tax rates.

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Attempts to correct these issues with legislation will potentially result in expensive legal resolutions. In our opinion, a comprehensive solution with a single assessment rate for all businesses in Kansas is the correct approach. Providing tax rates which are competitive with those of neighboring states will eventually result in an expanded tax base, and lead to additional taxable economic activities.

The attached schedule compares the property tax rates for UtiliCorp's Kansas divisions with those in neighboring states. The Kansas rate compares unfavorably with most of its neighbors.

Note that Iowa no longer has a property tax on UtiliCorp's gas distribution assets. Instead, Iowa imposes an excise tax on the company that delivers energy within the state. It is based on the volume of energy delivered and applies to the company, and not the end user.

This concludes my presentation. I will attempt to answer any questions that you might have at this time.

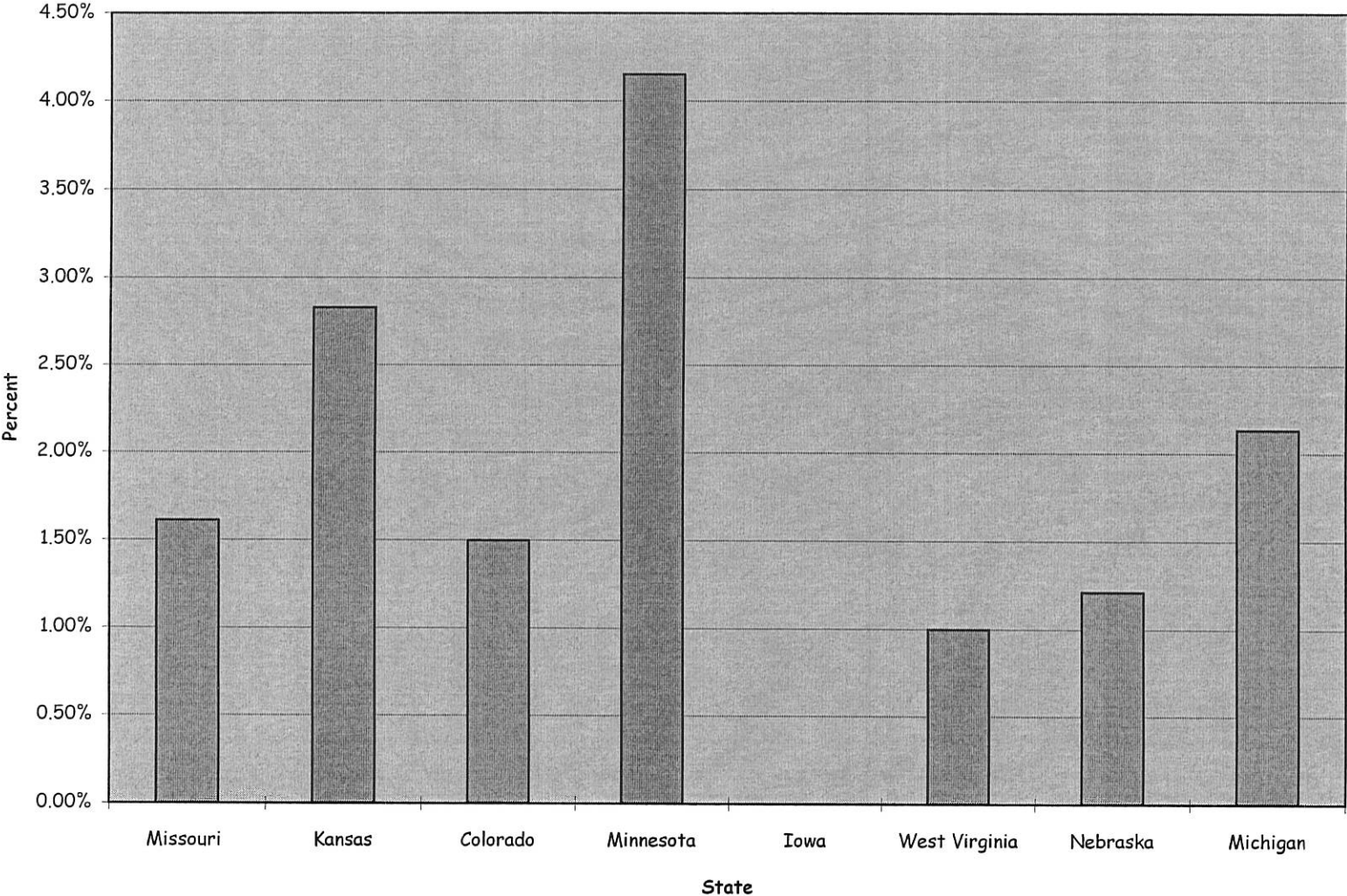
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600 MW Com Cycle ----- Tax calculation under current tax law ----- Tax under C & I Statutes -----

Year	Cost	Deprec	Net Book	Market Value	Assessment Rate	Assessed Value	Mill Levy	Tax	Depreciation	Taxable Value	Assess Rate	Assessed Value	Mill Levy	Tax	Difference
1	285,000,000	11,400,000	273,600,000	232,560,000	0.3333	77,512,248	11.8710%	9,201,479	25,857,143	257,142,857	0.25	64,285,714	11.8710%	7,631,357	1,570,122
2		11,400,000	262,200,000	222,870,000	0.3333	74,282,571	11.9897%	8,906,265	25,857,143	231,285,714	0.25	57,821,429	11.9897%	6,932,622	1,973,643
3		11,400,000	250,800,000	213,180,000	0.3333	71,052,894	12.1096%	8,604,226	25,857,143	205,428,571	0.25	51,357,143	12.1096%	6,219,148	2,385,078
4		11,400,000	239,400,000	203,490,000	0.3333	67,823,217	12.2307%	8,295,256	25,857,143	179,571,429	0.25	44,892,857	12.2307%	5,490,712	2,804,544
5		11,400,000	228,000,000	193,800,000	0.3333	64,593,540	12.3530%	7,979,247	25,857,143	153,714,286	0.25	38,428,571	12.3530%	4,747,085	3,232,161
6		11,400,000	216,600,000	184,110,000	0.3333	61,363,863	12.4765%	7,656,087	25,857,143	127,857,143	0.25	31,964,286	12.4765%	3,988,037	3,668,050
7		11,400,000	205,200,000	174,420,000	0.3333	58,134,186	12.6013%	7,325,666	25,857,143	102,000,000	0.25	25,500,000	12.6013%	3,213,333	4,112,334
8		11,400,000	193,800,000	164,730,000	0.3333	54,904,509	12.7273%	6,987,872		49,720,000	0.25	12,430,000	12.7273%	1,582,006	5,405,866
9		11,400,000	182,400,000	155,040,000	0.3333	51,674,832	12.8546%	6,642,589		49,720,000	0.25	12,430,000	12.8546%	1,597,826	5,044,763
10		11,400,000	171,000,000	145,350,000	0.3333	48,445,155	12.9831%	6,289,701		49,720,000	0.25	12,430,000	12.9831%	1,613,804	4,675,897
								77,888,389							
11		11,400,000	159,600,000	135,660,000	0.3333	45,215,478	13.1130%	5,929,092		49,720,000	0.25	12,430,000	13.1130%	1,629,942	4,299,150
12		11,400,000	148,200,000	125,970,000	0.3333	41,985,801	13.2441%	5,560,641		49,720,000	0.25	12,430,000	13.2441%	1,646,241	3,914,400
13		11,400,000	136,800,000	116,280,000	0.3333	38,756,124	13.3765%	5,184,228		49,720,000	0.25	12,430,000	13.3765%	1,662,704	3,521,524
14		11,400,000	125,400,000	106,590,000	0.3333	35,526,447	13.5103%	4,799,731		49,720,000	0.25	12,430,000	13.5103%	1,679,331	3,120,401
15		11,400,000	114,000,000	96,900,000	0.3333	32,296,770	13.6454%	4,407,026		49,720,000	0.25	12,430,000	13.6454%	1,696,124	2,710,902
16		11,400,000	102,600,000	87,210,000	0.3333	29,067,093	13.7819%	4,005,987		49,720,000	0.25	12,430,000	13.7819%	1,713,086	2,292,901
17		11,400,000	91,200,000	77,520,000	0.3333	25,837,416	13.9197%	3,596,486		49,720,000	0.25	12,430,000	13.9197%	1,730,216	1,866,270
18		11,400,000	79,800,000	67,830,000	0.3333	22,607,739	14.0589%	3,178,394		49,720,000	0.25	12,430,000	14.0589%	1,747,519	1,430,876
19		11,400,000	68,400,000	58,140,000	0.3333	19,378,062	14.1995%	2,751,581		49,720,000	0.25	12,430,000	14.1995%	1,764,994	986,588
20		11,400,000	57,000,000	48,450,000	0.3333	16,148,385	14.3415%	2,315,914		49,720,000	0.25	12,430,000	14.3415%	1,782,644	533,271
21		11,400,000	45,600,000	38,760,000	0.3333	12,918,708	14.4849%	1,871,259		49,720,000	0.25	12,430,000	14.4849%	1,800,470	70,789
22		11,400,000	34,200,000	29,070,000	0.3333	9,689,031	14.6297%	1,417,479		49,720,000	0.25	12,430,000	14.6297%	1,818,475	-400,996
23		11,400,000	22,800,000	19,380,000	0.3333	6,459,354	14.7760%	954,436		49,720,000	0.25	12,430,000	14.7760%	1,836,660	-882,224
24		11,400,000	11,400,000	9,690,000	0.3333	3,229,677	14.9238%	481,990		49,720,000	0.25	12,430,000	14.9238%	1,855,026	-1,373,036
25		11,400,000	0	0	0.3333	0	15.0730%	0		49,720,000	0.25	12,430,000	15.0730%	1,873,576	-1,873,576
								<u>124,342,633</u>						<u>69,252,937</u>	<u>55,089,696</u>

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UtiliCorp United, Inc. Tax Rates by State





Kansas Electric Power Cooperative, Inc.

Testimony on HCR 5013

Before the House Utilities Committee – March 12, 2001

**Bruce Graham, KEPCo's Vice President,
Member Services & External Affairs**

Thank you for the opportunity to address the merits of HCR 5013. As you know, this amendment would reduce the property tax assessment on utility property from 33 percent to 25 percent. We commend the Committee for its review of this concept as part of the effort to make Kansas an attractive site for the construction of new generation as well as provide a competitive tax structure for its native utility property.

As some of you know, the first states that restructured their electric utility industry did not pay sufficient attention to the potential tax implications and once restructuring was passed, state and local taxes became a significant issue. While HCR 5013 is not necessarily in preparation for restructuring, we believe it will take such a threat for the Legislature and the public to consider it favorably.

Clearly, the impact of such an amendment would not be a reduction in revenue to the state, rather it would be a shift from one taxpayer to another. The Kansas Department of Revenue stated in testimony this session that the shift could be as much as \$65 million if all utility property was reclassified.

Perhaps there are ways to amend the Amendment that would be a proactive approach to the issue with a less dramatic tax impact. One option would be to reclassify only electric generation facilities as commercial and industrial property in order to maintain equitable treatment with merchant power plants. According to a memo from the Kansas Legislative Research Department, the impact would be approximately \$14.6 million.

However, we believe that a successful amendment to the Constitution for utility property should provide more flexibility than a simple reduction from 33 percent to 25 percent. In fact, perhaps the percentage should be abolished and the tax levy left to the Legislature's determination. Otherwise, even if the Amendment was approved by the voters, there is no guarantee that utility property at 25 percent will be competitive, making another Constitutional Amendment necessary, but unlikely.

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Other states have been developing or have implemented plans to remove or reduce generation and or electric utility property taxes and provide a substitute revenue arrangement. The best of those ideas have the following basic tenets: provide revenue neutrality for local and state tax jurisdictions, are easy to administer, and remove tax costs as a factor in a competitive environment. Some possible tax reduction/replacement ideas follow.

- ◆ Gradually reduce the property tax for all utility property. This would be acceptable if there wasn't an artificial floor on the assessment rate of 25 percent for generation property. As mentioned before, even at 25 percent, generation property in Kansas may not be competitive with other states.
- ◆ Eliminate the tax on the generation property and replace it with a different tax or non-bypassable fee based on energy sales, miles of transmission or distribution line.
- ◆ Shift tax burden to non-utility property. Increase the sales tax or property tax on other forms of property in order to assure that the state's utility industry remains competitive, reliable and affordable.
- ◆ Decrease government expenditures. Political jurisdictions of the state may respond to the loss of revenue by becoming more efficient or offering fewer services.

We would urge the Committee to take a comprehensive look at proposals by other states to reduce utility property tax burdens. By reviewing those efforts, we should be able to determine a tax policy that can be coupled with the Constitutional Amendment to provide tax equity between utilities. Meanwhile, we feel that the Legislature's goal to abate property taxes as contained in HB 2266 and 2268 are excellent ideas that provide some immediate incentives for construction of generation in Kansas.

**Testimony Submitted To
The House Utilities Committee
By
Sunflower Electric Power Corporation
March 12, 2001**

Comments On House Concurrent Resolution 5013

Thank you, Mr. Chairman and members of the Committee, for providing Sunflower the time to share with you our thoughts on this proposed legislation. My name is Steve Miller. I serve as Sunflower's Senior Manager, External Affairs. Sunflower comes before you today to testify in support of this resolution.

I've probably never stood before you to testify on a bill that I was as convinced would fail as I do on this one. My understanding is that the Department of Revenue reports that, if approved, this change in our Constitution would result in a \$65 million loss of revenue. That's hard to vote for even if you are the most conservative person on earth, because we all know that this money will have to come from somewhere.

As I was pondering whether these words were worth the six-hour drive to Topeka and back, I finally decided to make the trip because this resolution represents a change that is the right thing for Kansas to do. That's an important distinction to me because at Sunflower we have a very simple phrase that you hear around our offices all the time. That phrase is: "Let's just try to do the right thing for the right reasons." So, that's why I'm here today, to try and help you see why we believe this is "the right thing to do."

We realize that this change, even if passed by the Legislature, will face a tough challenge at the ballot box. But it is still the right thing to do, in our opinion, because since 1993 Kansas utilities have been taxed at a rate that is 32% greater than the taxes imposed on all other businesses in Kansas. Does that seem right?

You are all quite familiar with the electricity situation in California. They've got quite a mess out there that won't be fixed for years, perhaps decades to come. Let me stop and add here that I'm so thankful that all of you didn't rush Kansas into some deregulation scheme like they implemented in California.

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, also know that some of you believe that we have a pending generating capacity crisis in Kansas. I've heard others wonder why recent powerplant projects have been built outside our state. We all know one of the main reasons why they're not built in Kansas. It's the taxes!

My point here is that the California situation occurred in large part as a result of their disincentives to plant construction. If building powerplants is going to be a priority for Kansas, we've got to make sure our rates are competitive with other states. And we need to do it now!

Sunflower's annual property tax bill is about \$5.4 million. If passed, this resolution would result in a 32% reduction of our property tax bill and it would save our ratepayers nearly \$1.3 million annually. That might not sound like a lot, but it would mean about \$1 per day for every customer we serve; it's certainly not chump change. And that's not the only reduction that would occur. Our six member cooperatives would also see reductions that could be returned to their consumers. In fact, we would support an amendment to this bill that would require all rate-regulated utilities to return these tax savings to their consumers.

The last point I'd like to make pertains to the last half of our charge, "...for the right reasons". The reasons I'm referring to here are good reasons for engaging your colleagues and the public on this issue. This change would take us back to a structure like the one that existed in 1992 where all Kansas businesses were taxed at the same rate. To us, that seems only right.

Secondly, this resolution would encourage all generators to build in Kansas, not just strangers without an obligation to serve the public. There are a lot of powerplant projects on drawing boards throughout the region and it seems only right that we work to get our tax rates competitive so that we can make sure that our fair share of those powerplants are built in Kansas.

Thank you Mr. Chairman for the time to share our views with the Committee. I would be happy to answer any questions.

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Testimony
before the
House Utilities Committee
by
Jim Ludwig, Western Resources
March 12, 2001

Chair Holmes and Members of the Committee:

Western Resources supports HCR 5013. If or when retail competition for electric generation is introduced or when all plants become merchant plants, it would make even better sense to classify generation facilities as commercial and industrial property, with the same depreciation schedule for tangible personal property and exemption for inventories. In an environment of competition for supply of generation, a power plant is virtually the same as any other manufacturing plant when it comes to property taxation. The "wires" or distribution part of the utility could remain a separate property classification with a 25% assessment rate.

HCR 5013 does not address how the state of Kansas would deal with erosion of the property tax base. For voters, who would likely pay the most attention to the assessment rate on residential property, a vote for this resolution would mean a higher mill levy and a higher property tax bill. With that result, it's hard to imagine the resolution gaining their approval or the legislature's.

It seems to us that a change in the Kansas constitution will have to be accompanied by other revisions in tax law in order for tax revenues to be preserved. Otherwise residential property taxpayers are unlikely to ever vote to approve this or any other resolution.

One possible solution to make up for the loss of property tax base would be an energy charge collected from ultimate utility consumers by distribution utilities. The charge might be based on the volume of electricity purchased (a charge levied per kwh) or by some other method such as a customer surcharge, or even a combination of a customer and a volumetric charge. Residential utility usage is currently exempt from the Kansas sales tax. Another solution might be to repeal this exemption, entirely or partially, at the time the classification amendment passed. Under either of these solutions, the distribution of tax revenues across the state's various taxing authorities would significantly change.

Western Resources believes the committee is considering an important tax policy issue by holding hearings on HCR 5013. But outside a context of other tax reform, we do not believe passage of this resolution is realistic.

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