

1999 HOUSE FINANCE AND TAXATION

HB 1445

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1445

House Finance and Taxation Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
1		x	16.7
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

REP. AL CARLSON, WEST FARGO, Introduced the bill. Submitted a handout regarding the history of transmission line taxation. This bill was introduced for the members of the electrical utilities committee. This bill deals with what we consider to be transmission, and the distribution side of it. This will be the total tax picture of how we tax transmission lines. This gives us a threshold to work with.

REP. BELTER You mentioned some states use the size of the line, capacity of the line, do other states use this method?

REP. CARLSON They all have a threshold, most states would be consistent with this.

REP. BELTER You are saying that 41.6 kilovolts, would be comparable to a certain size?

REP. CARLSON It is very specific, there are many lines that are much larger than what they actually carry. Rep. Klein can answer specific questions.

REP. MATT KLEIN, DIST. 40, MINOT, Answered the question. There are a number of things we would like to get into place. We know that eighteen or nineteen states have done this. We are looking at a three part task for all of the players involved. A generation tax, a transmission tax and a distribution tax, which would be a two part tax. Both on consumption and on total usage. What we need to do before we can move into that area and start splitting this out, is to make a determination of what is transmission and what is distribution. Voltage on a line, a line is designed and built for a certain volt. You do not change that voltage every month or every day. The regulatory commission has given the state some authority in determining what is transmission and what is distribution. Many of the states have gone using guidelines by function. In our state, where eighty percent of the power we generate goes out of state, and as the seasons change, if you try to do it by function, one week, one particular piece of line may be transmitting out, then maybe a week later, it is flowing the other way. Doing it by function, becomes a very detailed procedure. Our concept was to determine it based upon the design and built structure which is 41.6 kilovolts, which moves power from the generation system out to the distribution substations.

REP. BOB HUETHER, DIST. 27, Testified in support of the bill. This is quite a complicated business. Rep. Carlson and Rep. Klein gave you a good overview of this.

DENNIS BOYD, MDU RESOURCES GROUP, Testified in support of the bill. Stated he had one modest reservation about the bill, concerning the accounting and regulatory aspects. He

presented an amendment to Section 1, line 8, of the bill. This relieves some of the concerns the Public Service Commission had.

REP. GRANDE Asked what the amendment meant.

DENNIS BOYD There is a grey area, there is a four hundred page document issued by the Federal and Regulatory Commission which leaves a very grey area as to the definition for regulatory purposes of what is and what is not transmission. They established what is called, a seven factor test which deals with the function of a line. There may be some situations for regulatory purposes or accounting purposes that 41.6 may not be appropriate. This amendment is an effort to avoid some potential future conflict in regulatory or accounting procedures. It has nothing to do with taxation.

REP. WINRICH Asked for an example of what happens here.

DENNIS BOYD Gave an example of some possible problems with accounting.

REP. CARLSON Read a letter from Ottertail Power, which gave an explanation of the accounting system.

REP. HEUTHER Stated that fourteen municipal systems also attended the meetings.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-27-99, Tape #1, Side B, Meter 36.7

REP. GRANDE Made a motion to adopt the amendments as presented.

REP. MICKELSON Second the motion. MOTION CARRIED BY VOICE VOTE.

REP. WARNER Made a motion for a DO PASS AS AMENDED.

REP. GRANDE Second the motion. MOTION CARRIED

14 Yes 0 No 1 Absent

REP. GRANDE Was given the floor assignment.

FISCAL NOTE

(Return original and 14 copies)

/Resolution No.: HB 1445

Amendment to: _____

Requested by Legislative Council

Date of Request: 1/20/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts. Please provide breakdowns, if appropriate, showing salaries and wages, operating expenses, equipment, or other details to assist in the budget process. In a word processing format, add lines or space as needed or attach a supplemental sheet to adequately address the fiscal impact of the measure.

Narrative: HB 1445, if enacted, defines the difference between electric distribution and transmission lines. These definitions do not affect the taxation of electric cooperatives under chapters 57-33 and 57-33.1.

No fiscal effect.

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						

3. What, if any, is the effect of this measure on the budget for your agency or department:

- a. For rest of 1997-99 biennium: _____
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- b. For the 1999-2001 biennium: _____
 (Indicate the portion of this amount included in the 1999-2001 executive budget:)
- c. For the 2001-03 biennium: _____

4. County, city, and school district fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

If additional space is needed
attach a supplemental sheet.

Signed: *Kathryn L. Strombeck*

Typed Name: Kathryn L. Strombeck

Department: Tax

Date Prepared: January 21, 1999

Phone Number: 328-3402

Amendment to HB 1445

Section 1, line 8: delete the comma (,) after chapter 49-22 and add the following: and determination of the demarcation between federal and state jurisdiction over transmission in interstate commerce and local distribution,

regulatory accounting, including the ..

Submitted by:
Dennis Boyd
Montana-Dakota Utilities Co.
400 North 4th Street
Bismarck, ND 58501

Please type or use black pen to complete

Date 1-27-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1445

House HOUSE FINANCE & TAX Committee

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass as amended

Motion Made By Rep. Warner Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	✓				
FROELICH	✓				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	A				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 14 0
(Yes) (No)

Absent 1

Floor Assignment Rep. Grande

If the vote is on an amendment, briefly indicate intent:

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE

HB 1445: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1445 was placed on the Sixth order on the calendar.

Page 1, line 8, after "49-22" insert "and regulatory accounting including the determination of the demarcation between federal and state jurisdiction over transmission in interstate commerce and local distribution"

Renumber accordingly

1999 SENATE FINANCE AND TAXATION

HB 1445

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1445 A

Senate Finance and Taxation Committee

Conference Committee

Hearing Date 3-3-99

Tape Number	Side A	Side B	Meter #
HB 1445	X		0-1280
Committee Clerk Signature <i>Sheila Wald</i>			

Minutes:

Rep. Carlson - We are members of the Electric Commission establish last session. We came up with a study of taxation on electric utilities. We came up with redefine transmission lines. What we did, lines that transmit 41.6 kilovolts or more are considered transmission lines. anything above that size would be transmission. As we look and view transmission, we need to establish the level.

Rep. Klein - The long term goal of the committee is to have a taxation at the generation level, and that is in place by the coal severance tax. Have a tax on the transmission system and have a two part tax on the distribution system, which it will be an indebted tax, so that when the system opens that the CO that invested in building these transmission lines, will be able to charge based on capacity to get at some of out of State Companies, that don't have any assets in the State, so that our taxation will be fair to our in State suppliers. Other States have jumped in to this

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Senate Finance and Taxation Committee

Bill/Resolution Number Hb 1445a

Hearing Date *Click here to type Hearing Date*

system, and then found they had lots of problems. They did not look at the tax angle first. What we need to do is look at this tax angle and then talk about opening for consumer choice. It allows us to proceed to the next step, so we can start making our cuts. The outlying States have opened up to consumers and we have been very careful not to do that.

Sen Stenehjem - How much juice is 41.6 K?

Rep Klein - It is a voltage, pressure pushing power down the line.

Sen. Stenehjem - I have a box outside my house? From there to my house, what would be the average coming to my house?

Rep. Klein - 220. Lines that are bigger but has to be a major user. Refinery for instance, it comes in and sent out to different locations.

Sen. Christmann - This has been heavily discussed, and I think everyone involved is aware.

A MOTION WAS MADE BY SEN CHRISTMANN FOR A DO PASS AND SECONDED BY SEN. SCHOBINGER VOTE 7-0-0 CARRIER WILL BE SEN. CHRISTMANN.

Date: 3-3-99
Roll Call Vote #: ①

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1445 A

Senate Senate Finance and Taxation Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Christmann Seconded By Sen. Schobinger

Senators	Yes	No	Senators	Yes	No
SENATOR URLACHER	✓				
SENATOR CHRISTMANN	✓				
SENATOR SCHOBINGER	✓				
SENATOR STENEHJEM	✓				
SENATOR WARDNER	✓				
SENATOR KINNOIN	✓				
SENATOR KROEPLIN	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Christmann

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 3, 1999 11:31 a.m.

Module No: SR-38-3919
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1445, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1445 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

HB 1445

Submitted by
 Rep. Carlson

TRANSMISSION LINE TAXATION HISTORY

SUMMARY OF TRANSMISSION LINE TAXATION

Taxation of electric transmission lines under current law can be separated into three categories:

1. Transmission lines owned and operated by investor-owned electric utility companies are subject to ad valorem taxation. Assessments are made by the State Board of Equalization, and transmission lines are subject to property tax rates in taxing districts in which the lines are located, based upon the valuation established by the State Board of Equalization.
2. a. Transmission lines of a cooperative with a carrying capacity of less than 230 kilovolts or which do not carry power from an electrical generating unit with a capacity of 100,000 kilowatts or more are considered part of the personal property of the cooperative not subject to ad valorem taxes. Cooperatives in this category pay a two percent gross receipts tax that is in lieu of taxes on personal property, and transmission lines are considered exempt as personal property.
- b. Transmission lines owned and operated by a cooperative having one or more electrical generation plant with a capacity of 100,000 kilowatts or more, and which carry power from the plant, are subject to a tax of \$225 per mile, which is in addition to the two percent gross receipts tax

on operation of the generation plant or plants.

1941 Legislation

Before 1941, all transmission lines were subject to assessment by the State Board of Equalization and levy of property taxes by local taxing jurisdictions. In 1941 North Dakota Century Code Chapter 57-33 was enacted to impose a two percent gross receipts tax on electric cooperatives and their transmission lines were classified as personal property, exempting those lines from property taxes.

1965 Legislation

In 1965 North Dakota Century Code Chapter 57-33.1 was created to provide for separate taxation of receipts of cooperative electrical generation plants of 100,000 kilowatts or more. The two percent gross receipts tax rate was continued for these facilities, but a transmission line tax of \$150 per mile was imposed on lines of 230 kilovolts or larger, with the entire proceeds of the transmission line tax to be deposited in the county general fund of the county in which line is located.

1977 Legislation

An interim Legislative Council study recommended 1977 legislation that was enacted to increase the transmission line tax on these transmission lines owned by cooperatives from \$150 to the present rate of \$225 per mile.