

SENATE BILL REPORT

SB 5335

As of January 29, 1999

Title: An act relating to the taxation of natural gas and electricity futures contracts trading by persons other than light and power businesses and gas distribution businesses.

Brief Description: Taxing the business of trading natural gas and electricity futures contracts as a service.

Sponsors: Senators Goings, West, Loveland, Honeyford, Rossi, Rasmussen, Hochstatter, McDonald and Winsley.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 2/2/99.

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Staff: Karen Kirkpatrick (786-7403)

Background: A large wholesale trading market has recently emerged for electricity and gas. Both electricity and natural gas futures are now traded on commodity exchanges by hundreds of energy trading companies. Many of these traders are affiliates of traditional utilities but operate in an autonomous manner with no connection to the utility business. The traders buy and sell energy with the title passing at various common trading hubs. The trading companies have no physical facilities to store or transmit the energy.

The production, transmission, and distribution of electricity and the distribution of natural gas are subject to the state public utility tax based on the gross income of the business. The wholesale sale of electricity and natural gas by public utilities to other public utilities in the same business as the seller, for resale, is exempt from the public utility tax.

However, because wholesale traders do not market to end users, they are not considered public utilities and are instead subject to the state business and occupation tax on the gross income of the business. It has been suggested that the energy trading business is most analogous to stock trading for purposes of taxation.

Stock brokers are taxable under the general service classification at the rate of 1.5 percent. Stock brokers are taxed on the gains realized from trading in stocks, bonds, and other evidences of indebtedness.

Summary of Bill: Trading in natural gas and electricity futures contracts, other than by public utilities, is taxable as a service upon the gains realized from the trading.

Appropriation: None.

Fiscal Note: Requested on January 20, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.