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Operator's Signature

*10/16/63*  
Date

2003 HOUSE FINANCE AND TAXATION

HCR 3061

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Yolanda Richardson  
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10/16/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3061

House Finance and Taxation Committee

Conference Committee

Hearing Date February 26, 2003

Tape Number	Side A	Side B	Meter #
1	X		25.2
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

**REP. DROVDAL, VICE-CHAIR** Called the hearing to order.

**REP. AL CARLSON, FARGO** Introduced the resolution and explained some of the background on the resolution. This resolution deals with the taxation of electric utilities. For the past five years, he was chairman of the Electric Utility Competition Committee. What they attempted to do in that committee, as they watched other states involved in the deregulation of electricity, they found that everyone was making tremendous mistakes as they deregulated. He stated that Montana had destroyed their tax base system, and by watching the news, you see what California did. There are three types of electric utilities in the state, investor owned, co-operatives and municipals. There are fourteen cities which are municipally owned. The tax structure, basically, boils down to the two, investor owned and the co-operatives. We have property which is centrally assessed for one, and we have the gross receipts tax system for the other, the co-operatives being the gross receipts tax. The committee attempted to find a way to

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*Salvatore Riccardi*  
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*10/16/03*  
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House Finance and Taxation Committee

Bill/Resolution Number HCR 3061

Hearing Date February 26, 2003

uniformly tax all of them. Gave an explanation of the problems they encountered in finding a uniform tax. The goal is to find one tax system for all electrical utilities.

**REP. KELSH** Related to the first line of the resolution, "directing the Legislative Council to study" was it your intention that this would be a mandated study?

**REP. CARLSON** Yes it would be. During the interium, we were assigned to deregulation, that was our mission for the six years the committee was in existence. That mandate turned from deregulation to taxation after the first biennium. Last session, when the TIA bill was introduced in the Senate, they said now, we will add this to your plate as well. The intent is, not to just lay it out there, but to study it.

**REP. WINRICH** It sounds like this issue has been studied already, by your own description, the committee has done a great deal of work looking at these issues and wasn't able to come to any concensus in six years, is it realistic to get the job done in two years?

**REP. CARLSON** I think we have come ninety percent of the way. I can't tell you we will have a uniform agreement on the whole process. We asked the committee to bring us two tax proposals, and they each did, and when you looked at them, they weren't all that different. The main objective was, as a state we have chosen not to spend any less money on our programs, so the first goal is to maintain the revenue stream. We had to draft something that is revenue neutral. I think that was done. We possibly would have had a bill, had we not had two new members on our committee. We only met three times. The new members felt they didn't know enough about it to vote on it.

**HARLAN FUGLESTEN, COMMUNICATIONS & GOVERNMENT RELATIONS**

**DIRECTOR OF THE ND ASSN OF RURAL ELECTRIC COOPERATIVES** Testified in

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House Finance and Taxation Committee  
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support of the resolution. See attached written testimony plus a copy of a unified property tax replacement plan.

**REP. KLEIN** Do you think the structures are similar enough, on these IOU and REC's, that we will be able to put a value on the taxes that is equitable, to me it seems like there is quite a bit of difference, how will you address that?

**HARLAN FUGLESTEN** We both pay property taxes. We pay them on a different basis. With respect to the structure, I don't think that is an insurmountable area. Investor owned utilities pay something like six million dollars, we pay about seven million dollars in taxes, we are talking about eleven or twelve million dollars in taxes. We know what the fiscal impact is. We think we can arrive at a fiscal note that would be fair.

**DENNIS BOYD, ON BEHALF OF MDU RESOURCES GROUP.** Was not really testifying in support, at least not as the resolution is written. He stated he objected to a couple of Whereas's in the resolution. He stated he had amendments prepared to address those concerns. Gave some background history relating to the six year history of working on this problem. He stated they pay property taxes under two different systems. Their property taxes are centrally assessed, and then apportioned back to the political subdivisions. The rural electric co-operatives pay per mile transmission line tax, and a two percent gross receipts tax, both of which are in lieu of property taxes. We are taxed very differently, and it is very confusing. The one remaining tax that has not been addressed, is the corporate income tax which we pay, and they do not pay. Corporate income taxes should be assessed on them, removed from us, or figured into the equation.

Mr. Boyd presented amendments to the committee and explained them.

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The amendments reflect the emphasis of this study on property taxes, and includes all of the remaining taxes, which includes corporate income tax.

**REP. NICHOLAS** Stated, obviously, the IOU's pay the corporate income taxes, is there any reason we should include the tax that I pay as a consumer of the rural electric also?

**DENNIS BOYD** I presume the taxes paid by the rural electric co-operatives are reflected in the rates that you pay when you buy their electricity, just as they are in our rates. Those taxes, basically, are the gross receipt tax and the per mile transmission line tax.

**REP. NICHOLAS** The consumer pays the same tax, or what your tax, in the form of a dividend is, clarify that.

**DENNIS BOYD** That is another touchy area, you brought up dividends, which has nothing to do with this. I don't care, if you want to include that. In my mind, there are two types of taxes remaining, property taxes and income taxes.

With no further testimony, the hearing was closed.

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*Richard*  
Operator's Signature

*10/16/03*  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3061

House Finance and Taxation Committee

Conference Committee

Hearing Date March 3, 2003

Tape Number	Side A	Side B	Meter #
1		x	44.4 Recorder did not work
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

**COMMITTEE ACTION**

**REP. IVERSON** Presented amendments to the committee which were prepared by Dennis

Boyd with MDU Resources Group.

**REP. IVERSON** Made a motion to adopt the amendments as presented.

**REP. GROSZ** Second the motion.

**REP. WINRICH** Stated he would resist the amendments, as he felt the amendments would set the procedure backwards.

**REP. SCHMIDT** Felt the amendments would destroy everything the Electric Industry

Competition Committee members had worked on for the past six years.

**MOTION TO ADOPT THE AMENDMENTS FAILED 7 YES 7 NO**

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House Finance and Taxation Committee

Bill/Resolution Number **HCR 3061**

Hearing Date March 3, 2003

**REP. WINRICH** Made a motion for a **DO PASS**.

**REP. WEILER** Second the motion. **MOTION CARRIED**

11 YES            3 NO            0 ABSENT

**REP. HEADLAND** Was given the floor assignment.

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Dennis  
Boyd

Proposed Amendments to House Concurrent Resolution No. 3061

Page 1, Line 2: Replace "replace the" with "tax"; replace "property tax system" with "providers"

Page 1, Line 3: Delete "replacement"; delete "for electric utility property"

Page 1, Between lines 7 and 8: Insert "WHEREAS, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, Line 8: Delete "property"

Page 1, Line 9: Insert after among "the state or North Dakota and its"

Page 1, Line 15: Delete "property" and "replacement"

Page 1, Line 18: Delete "property"

Page 1, Line 20: Delete entire line

Page 1, Line 21: Delete entire line

Page 1, Line 23: Delete "and"

Page 2, Line 1: Delete entire line

Page 2, Line 2: Delete entire line

Page 2, Line 3: Delete entire line

Page 2, Line 7: Replace "replace the" with "tax"; replace "property tax system" with "providers; delete "replacement"

Page 2 Line 8: Delete "for electric utility property"

Salvatore Riccardi  
Operator's Signature

10/16/03  
Date

