

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2141

2007 SENATE FINANCE AND TAXATION

SB 2141

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2141**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: # 1687

Committee Clerk Signature

Sharon Penfold

Minutes:

Sen. Urlacher: called the committee to order and opened the hearing on SB 2141.

Sen. Urlacher: prime sponsor of the bill stated that this bill to pertains to recycling of heat from pump stations and gave a handout. A number of sessions ago we exempted sales tax from manufacturing business of equipment, electric generating poll, wind energy and hydrogen generation and pollution control. At that time the technology didn't exist and regard to the recycling of heat. So that has not been recognized for an exemption. SD does exempt for that purpose and they have installed 3 units in SD and 1 in ND. We're going to be losing those facilities to SD here likely because of the tax effect. I think it's a very worth while project, its environmental friendly, has a great potential of generation for what we think is a lesser cost of a lot of other generations.

Rep. Brandenburg: co-sponsor of the bill appeared in support stating this bill deals would deal with the sales tax which has been used on many other kinds of construction across the state to encourage a development of energy type facilities. In McIntosh County this type of construction and waste heat could be built and do we want in ND or in SD? SD has the taxes in place that is attractive to go there and we need to be competitive.

Sen. O'Connell: Co-sponsor of the bill appeared in support with written testimony.

Curtis Jabs: Basin Electric Power Cooperative appeared in support with written testimony.

Sen. Cook: The \$100,000 and the \$29,000 that's on and above whets been generated already which is the compressor station there?

Answer: the \$100,000 will be with the property tax that will be paid by each sight closest to that district and then the \$29,000 is the gross receipts tax that Basin Electric pays gross receipts like in lieu of property tax.

Sen. Urlacher: so it would be recovering that \$100,000 through taxation?

Answer: that's correct, about \$129,000 a year in additional tax would be coming to ND.

Chris VandeVenter: of Basin Electric appeared to give information to the committee and answer questions.

Sen. Cook: \$100,000 assessed property tax, how is that distributed?

Curtis: that will go to that district

Sen. Cook: who collects it?

Don Boehm: Basin Electric – because that property is essentially assessed the State of ND essentially assesses it and then the values are distributed to the counties and the County Treasurer sends those tax payments out and it goes directly to the county of where each facility is located.

Sen. Cook: so they distribute it to the county and the school district?

Answer: that's correct.

Sen. Cook: this is what we would call an unattended consequence and also for many years an unnoticed consequence. But it is noticed now and I think it's compared that maybe we somehow see if we can't find a solution.

Answer: that is no different than any other new manufacturing business that goes into any city, county or township the property taxes are in fact assessed based upon the value of that

investment and it is distributed to the county and political subdivisions of which that is located. So this isn't really any different than the other ones would be. Although there are other mythologies that could be applied.

Sen. Cook: there is a difference. That other property you're talking about shows up behind the wealth of the school district, this particular property does not, and that's the difference.

Closed the hearing. Discussion

Sen. Triplett: Looks like they didn't take into consideration the potential up-side, can we ask them to redo the F.N.

Sen. Cook: the purpose of the fiscal note is its reflection on the state budget.

Sen. Oehlke: the fiscal note is only the, an impact if they are built or not, if they're not built at all, then the fiscal impact is actually worse. It's funny it doesn't fall under pollution control.

Sen. Anderson: Rep. Brandenburg said we don't have it now so there is really no fiscal effect on any budget that's out there now.

Closed discussion.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2141**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 23, 2007

Recorder Job Number: # 1689

Committee Clerk Signature

Sharon Renslow

Minutes:

Sen. Urlacher: called the committee back to order for further discussion.

Miles Vosberg from the Tax Dept. Appeared to answer any questions the committee might have.

Sen. Anderson: just for clarification, the fiscal note shows a hit to the general fund and other funds but we really never had that money in the State of ND, this is if the tax exemption weren't given, this is what would go in, not what's coming out, right?

Miles: when we prepared the F.N. we have to look at the existing law and under that existing law assuming that these plants would be built it would generate that revenue and that revenue would be lost under this bill.

Sen. Urlacher: so now there's going to be taxation paid to the local subdivisions proposed \$100,000, that's not taken into consideration in the offset of the losses to the state?

Miles: that's correct, we didn't bill that in. Do you want us to do some work on that and look at that?

Sen. Urlacher: it would be nice to know what the offset effect would be.

Miles: no impact on the State.

Sen. Cook: If this bill passes it's going to show a reduction of \$600,000 in general funds for the next biennium, correct? That's correct.

Sen. Triplett: the reality is that it may never be built or used in this State.

Miles: we don't know that these plants would not be built without the exemption.

Sen. Urlacher: that's if they were all built within the biennium as well.

Miles: the information that we had on the research we did indicated that they would be built within the next 2 years.

Sen. Cook: made a Motion for DO PASS and Refer to Appropriations, seconded by Sen. Tollefson. 7-0-0 Sen. Horne will carry the bill.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2141**

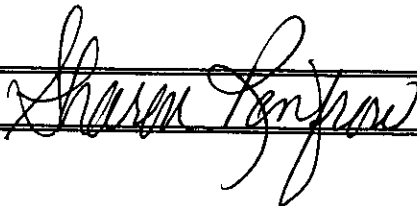
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: # 1826

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for further discussion on SB 2141

Miles Vosberg of the Tax Dept. appeared to provide additional information on the revenue that would be generated from the 3 plants that we were aware of that would be used _____.

We don't have that in writing yet but the information that we had received would be there each one of the three facilities would generate \$29,000 in gross receipts tax which would primarily go to the Minot area and \$100,000 in property tax that would be distributed wherever those facilities are.

Sen. Cook: it would just be a narrative in the fiscal note and that gets entered into laws.

Miles Vosberg will get a narrative.

Adjourned the meeting.

FISCAL NOTE
 Requested by Legislative Council
 01/05/2007

Bill/Resolution No.: SB 2141

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$552,000)	(\$48,000)		
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2141 grants a sales tax exemption for materials used in construction of a waste heat electric generating facility.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

SB 2141 will exempt materials in up to three plants scheduled for construction in the 2007-09 biennium. The exemption will reduce state general fund and state aid distribution fund revenues by an estimated \$600,000 in the 2007-09 biennium.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/22/2007

Date: 1-23-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2141

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass & Refer to Approp.

Motion Made By Sen Cook Seconded By Sen Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson	✓	
Sen. Tollefson	✓		Sen. Horne	✓	
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehike	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Horne

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

REPORT OF STANDING COMMITTEE (410)
January 23, 2007 11:52 a.m.

Module No: SR-15-1012
Carrier: Horne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

SB 2141

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

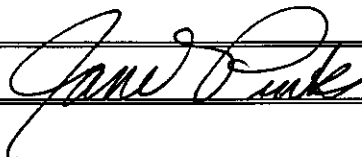
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02/02/07

Recorder Job Number: 2682

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2141.

Dale Niezwaap, Basin Electric, testified in support of SB 2141 identifying the purpose of the legislation and the fiscal note.

Senator David P. O'Connell, District 6, Lansford, presented written testimony (1) is a bill to provide a sales tax exemption on the construction of waste heat or recycled energy facilities for up to three plants.

Senator Bowman asked what materials and exactly what is exempt and what offsets that loss to the state. The response was that costs money for materials put into the plant and those materials would be exempt. He then responded as the amounts in the fiscal note. There would be a property tax per each annually and gross receipts sales tax.

Senator Lindaas asked if this brings up the question of transmission or is that already in place. The response was the transmission is already covered, this bill does not cover that.

Senator Chrsitmann asked to repeat about the gross receipts taxes.

Senator Mathern asked who the purchasers are in this and who are the retail purchasers.

The response was Basin Electric and the consumers of Basin Electric and cooperatives.

Senator Grindberg asked if this is a one-time legislation for a few projects, how long will the construction take and is there a problem with sunseting this. The response was the only spots being considered are the three plants.

Senator Christmann asked if this energy counts as green power. The response was it is the same as green energy.

Senator Grindberg asked if there are any type of tax credits these plants are eligible for. The response was no.

Senator Bowman asked if this would give the companies a competitive edge over someone who doesn't have this available. The response was this incentive is open to any company.

Todd Kranda, lobbyist, as was indicated this legislation would be open to anyone else who would be interested in applying. There are plants generating energy.

Senator Lindaas described his visit to the committee.

Senator Krauter asked about the general fund and state aid distribution fund.

Miles Vosberg, Director, Tax Administration, Tax Commissioners Office, discussed the sales tax law provision and formula for state aid distribution fund.

Senator Christmann indicated if we don't do this and the companies decide to put these plants in South Dakota how do we get the funds back that you say we will loose if we do this. The response was they have already done this in South Dakota. There was no other direct answer.

There were further questions and comments about the budget, the budget status summary, the return of tax money, the idea of a sunset statement, the budget status summary, and other energy projects.

Chairman Holmberg closed the hearing on SB 2141.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

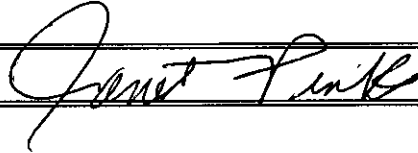
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-08-07

Recorder Job Number: 3099

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2141.

Senator Grindberg indicated that perhaps there should be a sunset on the bill. Discussion followed.

Senator Grindberg moved a **DO PASS** on the sunset amendment, **Senator Christmann** seconded. An oral vote was taken, the motion carried.

Senator Grindberg moved a **DO PASS AS AMENDED**, **Senator Tallackson** seconded. A roll call vote was taken resulting in 14 yes, 0 no, 0 absent. **Senator Christmann** will carry the amendment.

Chairman Holmberg closed the hearing on SB 2141.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2141

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-09-07

Recorder Job Number: 3333

Committee Clerk Signature

Alice DeLuzo

Minutes:

Chairman Holmberg opened discussion regarding SB 2141. SB 2141 was passed by the body earlier today and reconsidered at the end of the day. What had happened in essence there was some confusion and the amendment that was added to the bill which dealt with a sunset clause in 4 years was not attached to the committee report. So we brought it back here, there will be a new committee report prepared with the amendment on it. Some of you had the amendment in your books and you have copies of it right now. So that's why that occurred. Discussion closed on SB 2141 at this time.

REPORT OF STANDING COMMITTEE (410)
February 8, 2007 1:17 p.m.

Module No: SR-27-2535
Carrier: Horne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2141: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the
Eleventh order on the calendar.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2141

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 8, line 7, after "**DATE**" insert "**- EXPIRATION DATE**"

Page 8, line 8, after "2007" insert ", and before July 1, 2011, and is thereafter ineffective"

Renumber accordingly

Date: 2/8/07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2141

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as amend

Motion Made By Tallackson Seconded By Christmann

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Harne Fin

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

*Christmann
carry
amend*

REPORT OF STANDING COMMITTEE

SB 2141: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and" and after "date" insert "; and to provide an expiration date"

Page 8, line 7, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 8, line 8, after "2007" insert ", and before July 1, 2011, and is thereafter ineffective"

Renumber accordingly

2007 HOUSE FINANCE AND TAXATION

SB 2141

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2141A

House Finance & Taxation Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4304

Committee Clerk Signature

D. Plunose

Minutes:

Rep. Belter: Clerk took the roll. We will open the hearing on SB 2141. Clerk read title. Sen. Urlacher called up and said he wouldn't be able to make it.

Rep. Mike Brandenburg: This bill is a sales tax exemption dealing with waste heat generation from natural gas pipelines projects that are being funded in the state of ND and this particular project is one of these generators that was in my district in McIntosh County. There was a problem in ND and SD, in looking at where they are going to place this waste heat placement. Part of the problem is ND and SD are trying to balance the tax incentives so this is why this bill has been brought forward. We are trying to get it placed in McIntosh County. I stand in favor.

Dale Niezwaag, Basin Electric Power Cooperative: (see attached testimony #1).

Rep. Belter: Are these sites, can they be placed anyplace or do they need to be at a certain distance.

Dale Niezwaag: Yes, wherever a compressor station is located. The pipeline, these compressor stations move the gas down the line, they use a portion of their natural gas to burn in these generators to create the compression. So wherever these compressor stations are located at, and the compressor stations, some of them operate part-time and other times

operate full time to keep the gas moving; where we put these sites so far, have been where they run roughly 90% of the time. So it's where you have good generation; the first four that we selected was the one in St. Anthony and three in SD. They had very short transmission requirements. That's why we ended up starting those for the four pilot projects. These potential ones that we are looking at here, the additional three are a little bit further on the transmission side, but it's wherever the pipeline places the compressor stations, is where we have the availability for this.

Rep. Belter: From an engineering aspect, they can be most anyplace.

Dale Niezwaag: Wherever there is a compressor station, you could put this technology in. The economics will determine whether they run long enough for you to create enough power to offset your cost of installation and transmission. No, engineering wise, you can put them where you are at. Both of these are smaller, life 5 megawatts. You pretty well sink the power to the local load.

Rep. Belter: So in other words, there's not really a geographic location, it doesn't really determine where they are located.

Dale Niezwaag: No, it's more of the economics, is there a lot of transmission...

Rep. Belter: It's who you get the best deal from.

Dale Niezwaag: I will tell you, we've been working with Northern Border because they have offered us the best deal with the waste heat, with the Alliance Pipeline, we have not been able to come to terms to make it feasible to put these systems on their pipeline at this point. It is an economic thing.

Rep. Headland: How much revenue does 5 megawatts produce.

Dale Niezwaag: For 5 megawatts of power, I don't know. I can get the figure to you.

Rep. Headland: I'm just curious, I don't see anything in here, what does it cost to Basin applying, putting this application into service.

Dale Niezwaag: Each site costs us \$8 million dollars per site; we estimate \$4 million dollars being equipment and \$4 million dollars being labor to construct.

Rep. Weiler: Okay, so this goes into the compressor, are the compressors already there. Is this system already there and you are just wanting to put in the heat exchanger.

Dale Niezwaag: That's correct. If you look at that last map that I handed out, these pipelines are already built, except for the Keystone line. The Keystone line is one that's projected. Right now, there's a debate whether they will put an electric or gas compressor stations in there. The ones that we are working on, the pipeline is there, the compressor station is there, we simply come in and add the heat exchanger to the exhaust pipe, for lack of a better word, and generate power. They're existing sites that are already there.

Rep. Weiler: What would happen if you don't put these in.

Dale Niezwaag: If we don't put these in, it's just another generation source that we will lose, we will have to replace with something else, either with a coal-fired plant, buying power off the market or some other form.

Rep. Weiler: And how many of these, you said they are about \$8 million each, how many do you plan on putting in.

Dale Niezwaag: We're looking at three additional sites right now, with the Northern Border Pipeline.

Rep. Weiler: Three additional sites, \$600,000 fiscal note, so it's about \$200,000 per site for the credit.

Dale Niezwaag: That's correct.

Rep. Weiler: So you're willing to spend \$24 million dollars for these heat exchangers, but are you not going to do it if you don't get the \$550,000 in tax credits.

Dale Niezwaag: What we've done now, and with our first agreement, and I can show you if you like, we have in there, a clause that says that if we don't receive this tax exemption, then that allows, it sets up a different pricing structure for the generation and at that point, either party has a chance to walk away. Will they be in or not, it will depend after the session is over, when we look at our costs of power and what other options we have, whether we will build them or not. I can't say whether we will or not. Whether we do have a different pricing structure that comes in and we have the option to walk away with our purchase agreement.

Rep. Pinkerton: So SD has already put this tax incentive in place?

Dale Niezwaag: That's correct. This qualifies as a new business structure and it qualifies for what they have as a sales and contract or excise tax exemption.

Rep. Pinkerton: And you're asking for a sales tax exemption.

Dale Niezwaag: That's correct.

Rep. Pinkerton: Because the pipeline flows through SD, you have the option to build it either in ND or SD.

Dale Niezwaag: We do as far as the sites are available. Again, it's where the compressor stations are that provide us the opportunity to put the generation in.

Rep. Pinkerton: In this particular situation, if built in SD, then this is strictly a sales tax, which is the principal amount of money that you're asking for the sales tax exemption.

Dale Niezwaag: The sales tax on a contract or excise tax and all proportions of both of those; but we don't have a contract or excise tax in ND.

Rep. Pinkerton: Without this bill, at least one of these plants will probably be built in SD, is that what you're saying.

Dale Niezwaag: Again, that depends. If we go down there, we'd have a different pricing structure than we have in ND, if we do not have this legislation. That's why we are able to process more per site to put these in, if we do it in ND.

Rep. Wrangham: In looking at the scope of these projects, I understand the generation that is coming from St. Anthony is pretty much constant, on-line all the time. Maybe so that we can get some idea of the scope, how many homes would that typically supply.

Dale Niezwaag: We figure out 1,000 homes per megawatts, so you could get about 4-5,000 homes.

Rep. Froseth: Do you have the electricity that's generated, do you have some stations or transmission lines here where you can tap into and move it, in close proximity to the three additional sites that you are going to build.

Dale Niezwaag: I don't know exactly how much transmission we have on these, I know on the first four the transmission requirements were less than the 8 mile bill on these. I am assuming that these are anywhere from 8-15 miles out billed. We will have to build transmission lines to hook these into the grid, yes.

Rep. Weiler: Is this a one-time, or an ongoing, because it is a sales for the construction.

Dale Niezwaag: That's correct, it's a one time just for the construction, not for our maintenance and upgrades.

Rep. Headland: Do you receive any type of credits for this being a green energy.

Dale Niezwaag: We do track this, we pay to have this tracked, and in the last legislative session we listed recycled energy under the renewable definition. We have some debates with the environmental community whether we consider them green energy, because they produce no emissions and use no additional resources. We do generate tags, we are in the process of trying to market the tags, but at this point we haven't been able to market them. When

someone wants to buy green tags or green energy, they look at what generated the power; be it wind, hydro, recycled energy. We do have the credits, we are attempting to market them, but we have not been able to do it as yet. But we consider them green, but not everyone else does.

Rep. Schmidt: Do these pipelines that are put in, do you know if they got any sales tax exemption from the state.

Dale Niezwaag: I do not know what they did with the pipeline.

Rep. Schmidt: Do you know how much money the pipeline paid the state of ND in property taxes.

Dale Niezwaag: I wouldn't know that. I do know that they are paying property taxes, but don't know what amount.

Rep. Schmidt: In that new section of the red line, (can't hear), I think Benson County received around \$47,000 in property taxes and in Towner County, \$96,000, and in Pierce County it was in the \$90,000's, so these places are paying an awful lot of property tax. I would think the state would figure (can't hear).

Dale Niezwaag: All I do know is that each site is paying an additional about \$100,000 of property taxes where we put these sites in.

Rep. Brandenburg: Just because the question is being asked, I would point out that we're giving up a \$200,000 tax incentives to put in the construction portion of it, but then they put in \$100,000 per year in property taxes for that site, so in a couple of years you recover that \$200,000. Also the \$29,000 gross receipt tax, the consumers are the real winners in this because you are giving them cheaper power by giving the sales tax exemption for the property.

Rep. Froseth: Why is the same language placed into two different sections in the Code.

