



# House of Representatives

General Assembly

**File No. 636**

*January Session, 2001*

Substitute House Bill No. 6880

*House of Representatives, May 7, 2001*

The Committee on Finance, Revenue and Bonding reported through REP. MCDONALD of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT UPDATING PROVISIONS RELATING TO THE UTILITY COMPANIES' GROSS EARNINGS TAX.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-264 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 [(a) Each (1) Connecticut municipality or department or agency  
4 thereof, or Connecticut district, manufacturing, selling or distributing  
5 gas or electricity to be used for light, heat or power, in this chapter and  
6 in chapter 212a called a "municipal utility", (2) company the principal  
7 business of which is manufacturing, selling or distributing gas or  
8 steam to be used for light, heat or power, including each foreign  
9 municipal electric utility, as defined in section 12-59 and given  
10 authority to engage in business in this state pursuant to the provisions  
11 of section 16-246c, and (3) company required to register pursuant to  
12 section 16-258a shall pay a quarterly tax upon gross earnings from

13 such operations in this state. Gross earnings from such operations  
14 under subdivisions (1) and (2) of this subsection shall include (A) all  
15 income classified as operating revenues by the Department of Public  
16 Utility Control in the uniform systems of accounts prescribed by said  
17 department for operations within the taxable quarter and, with respect  
18 to each such company, (B) all income classified in said uniform  
19 systems of accounts as income from merchandising, jobbing and  
20 contract work, (C) income from nonutility operations, (D) revenues  
21 from lease of physical property not devoted to utility operation, and  
22 (E) receipts from the sale of residuals and other by-products obtained  
23 in connection with the production of gas, electricity or steam. Gross  
24 earnings from such operations under subdivision (3) of this subsection  
25 shall be gross income from the sales of natural gas. Gross earnings of a  
26 gas company, as defined in section 16-1, shall not include income  
27 earned in a taxable year commencing prior to January 1, 2002, from the  
28 sale of natural gas or propane as a fuel for a motor vehicle. No  
29 deductions shall be allowed from such gross earnings for any  
30 commission, rebate or other payment, except a refund resulting from  
31 an error or overcharge and those specifically mentioned in section 12-  
32 265. Gross earnings of a company as described in subdivision (2) of  
33 this subsection shall not include income earned in any taxable quarter  
34 commencing on or after July 1, 2000, from the sale of steam.

35 (b) (1) Each such company and municipal utility shall, on or before  
36 the last day of January, April, July and October of each year, render to  
37 the Commissioner of Revenue Services a return on forms prescribed or  
38 furnished by the commissioner and signed by its treasurer or the  
39 person performing the duties of treasurer, or by an authorized agent or  
40 officer, specifying (A) the name and location of such company or  
41 municipal utility, (B) the amount of gross earnings from operations for  
42 the quarter ending with the last day of the preceding month, (C) the  
43 gross earnings from the sale or rental of appliances using water, steam,  
44 gas or electricity and the cost of such appliances sold, cost to be  
45 interpreted as net invoice price plus transportation costs of such

46 appliances, (D) the gross earnings from all sales for resale of water,  
47 steam, gas and electricity, whether or not the purchasers are public  
48 service corporations, municipal utilities, located in the state or subject  
49 to the tax imposed by this chapter, (E) the number of miles of water or  
50 steam pipes, gas mains or electric wires operated by such company or  
51 municipal utility within this state on the first day and on the last day  
52 of the calendar year immediately preceding, and (F) the number of  
53 miles of water or steam pipes, gas mains or electric wires wherever  
54 operated by such company or municipal utility on said dates. Gas  
55 pipeline and gas transmission companies which do not manufacture or  
56 buy gas in this state for resale in this state shall be subject to the  
57 provisions of chapter 208 and shall not be subject to the provisions of  
58 this chapter and chapter 212a.

59 (2) No person, firm, corporation or municipality that is chartered or  
60 authorized by this state to transmit or sell gas within a franchise area  
61 shall transmit gas for any person that sells gas to be used for light, heat  
62 or power to an end user or users located in this state, unless such seller  
63 has registered with the Department of Revenue Services for purposes  
64 of the tax imposed under this chapter. The provisions of this  
65 subdivision shall not apply to the transmission of gas for any seller  
66 that is a gas company, as defined in section 16-1, municipal gas utility  
67 established under chapter 101 or any other gas utility owned, leased,  
68 maintained, operated, managed or controlled by any unit of local  
69 government under any general statute or any public or special act, or a  
70 gas pipeline or gas transmission company subject to the provisions of  
71 chapter 208.

72 (3) The Commissioner of Revenue Services may make public the  
73 names and addresses of each person that sells gas to be used for light,  
74 heat or power to an end user or users located in this state and has  
75 registered with the Department of Revenue Services for purposes of  
76 the tax imposed under this chapter, and that is not a gas company, as  
77 defined in section 16-1, a municipal gas utility established under

78 chapter 101 or any other gas utility owned, leased, maintained,  
79 operated, managed or controlled by any unit of local government  
80 under any general statute or any public or special act, or a gas pipeline  
81 or gas transmission company subject to the provisions of chapter 208.

82 (c) (1) Each electric distribution company, as defined in section 16-1,  
83 providing electric transmission services, as defined in said section 16-1,  
84 or electric distribution services, as defined in said section 16-1, shall  
85 pay a quarterly tax upon its gross earnings in each calendar quarter at  
86 the rate of (A) eight and one-half per cent of its gross earnings from  
87 providing electric transmission services or electric distribution services  
88 allocable to other than residential service and (B) six and eight-tenths  
89 per cent of such gross earnings from providing electric transmission  
90 services or electric distribution services allocable to residential service.

91 (2) For purposes of this subsection, gross earnings from providing  
92 electric transmission services or electric distribution services shall  
93 include (A) all income classified as income from providing electric  
94 transmission services or electric distribution services by the  
95 Department of Public Utility Control in the uniform system of accounts  
96 prescribed by said department and (B) the competitive transition  
97 assessment collected pursuant to section 16-245g, the systems benefits  
98 charge collected pursuant to section 16-245l, and the assessments  
99 charged under sections 16-245m and 16-245n. Such gross earnings shall  
100 not include income from providing electric transmission services or  
101 electric distribution services to a company described in subsection (c)  
102 of section 12-265.

103 (3) Each electric distribution company shall, on or before the last  
104 day of January, April, July and October of each year, render to the  
105 Commissioner of Revenue Services a return on forms prescribed or  
106 furnished by the commissioner and signed by its treasurer, or the  
107 person performing the duties of treasurer, or of an authorized agent or  
108 officer, with such other information as the Commissioner of Revenue

109 Services deems necessary.

110 (d) The tax imposed by this chapter is due and payable to the  
111 Commissioner of Revenue Services quarterly on or before the last day  
112 of the month next succeeding each calendar quarter.]

113 (a) (1) As used in this subsection, "gross earnings from such  
114 operations" includes (A) all income classified as operating revenues by  
115 the Department of Public Utility Control in the uniform systems of  
116 accounts prescribed by said department for operations within the  
117 taxable quarter, (B) all income classified in such uniform systems of  
118 accounts as income from merchandising, jobbing and contract work,  
119 (C) income from nonutility operations, (D) revenues from lease of  
120 physical property not devoted to utility operation, and (E) receipts  
121 from the sale of residuals and other by-products obtained in  
122 connection with the production of gas. "Gross earnings from such  
123 operations" does not include income earned in a taxable year  
124 commencing prior to January 1, 2002, from the sale of natural gas or  
125 propane as a fuel for a motor vehicle. As used in this subsection, "net  
126 invoice price" means invoice price minus trade discounts.

127 (2) Each company the principal business of which is manufacturing,  
128 selling or distributing gas to be used for light, heat or power and each  
129 foreign municipal electric utility that is authorized to engage in  
130 business in this state pursuant to section 16-246c, shall pay a quarterly  
131 tax upon its gross earnings from such operations in this state. The tax  
132 imposed by this subsection shall be due and payable to the  
133 Commissioner of Revenue Services quarterly on or before the last day  
134 of the month next succeeding each calendar quarter.

135 (3) (A) No deductions shall be allowed from gross earnings for any  
136 commission, rebate or other payment, except a refund resulting from  
137 an error or overcharge. (B) Deduction shall be allowed from such gross  
138 earnings for (i) any gross earnings from sales for resale of gas to any  
139 public service companies and municipal utilities, whether or not such

140 purchasers are Connecticut public service companies and whether or  
141 not such companies or utilities are subject to the tax imposed by this  
142 chapter, (ii) the net invoice price plus transportation costs of  
143 appliances using gas, where gross earnings included income from sales  
144 of such appliances, (iii) any payment that is made by a company or  
145 utility to the Commissioner of Economic and Community  
146 Development and that represents the company's or utility's allocable  
147 portion of the product that is calculated by said commissioner under  
148 subsection (f) of section 16-40b, (iv) any gross earnings from sales of  
149 natural gas to end users located outside this state or to entities located  
150 outside this state, (v) any gross earnings from sales for resale of natural  
151 gas to natural gas suppliers that have registered with the Department  
152 of Revenue Services for purposes of the tax imposed under this  
153 chapter, and (vi) any gross earnings from sales of natural gas to  
154 exempt wholesale generators, as defined in 15 USC 79z-5a, to the  
155 extent such natural gas is used directly by such exempt wholesale  
156 generators in the generation of electricity.

157 (4) Each company or foreign municipal utility subject to the tax  
158 imposed under this subsection shall, on or before the last day of  
159 January, April, July and October of each year, submit to the  
160 Commissioner of Revenue Services a return on forms prescribed or  
161 furnished by the commissioner and signed by such company's or  
162 utility's treasurer or the person performing the duties of treasurer, or  
163 by an authorized agent or officer of the company or utility, specifying  
164 (A) the name and location of such company, (B) the amount of its gross  
165 earnings from operations for the quarter ending with the last day of  
166 the preceding month, (C) the amount of gross earnings from the sale or  
167 rental of appliances using gas and the cost of such appliances sold, cost  
168 to be interpreted as net invoice price plus transportation costs of such  
169 appliances, (D) the amount of gross earnings from all sales for resale of  
170 gas to a public service company, municipal utility, or foreign  
171 municipal electric utility, whether or not such company or utility is  
172 subject to the tax imposed by this chapter, (E) the amount of gross

173 earnings from all sales of natural gas to end users located outside this  
174 state, and (F) the amount of gross earnings from all sales for resale of  
175 natural gas to natural gas suppliers that have registered with the  
176 Department of Revenue Services for purposes of the tax imposed  
177 under this chapter.

178 (5) Each such company or foreign municipal utility subject to the tax  
179 imposed under this subsection shall be taxed at the rate of five per cent  
180 upon the amount of its gross earnings from operations in each quarter,  
181 and each such company or foreign municipal utility manufacturing,  
182 selling or distributing gas to be used for light, heat or power shall be  
183 taxed at the rate of four per cent upon the amount of its gross earnings  
184 from operations in each quarter allocable to residential service and  
185 shall not be taxed upon the amount of its gross earnings from  
186 operations in each quarter allocable to nonresidential service used  
187 directly by a company engaged in a manufacturing production  
188 process, in accordance with the Standard Industrial Classification  
189 Manual, United States Office of Management and Budget, 1987 edition,  
190 classifications 2000 to 3999, inclusive, or Sector 31, 32 or 33 in the North  
191 American Industrial Classification System United States Manual,  
192 United States Office of Management and Budget, 1997 edition.

193 (b) (1) As used in this subsection, "gross earnings from such  
194 operations" includes (A) all income classified as operating revenues by  
195 the Department of Public Utility Control in the uniform systems of  
196 accounts prescribed by said department for operations within the  
197 taxable quarter, (B) all income classified in said uniform systems of  
198 accounts as income from merchandising, jobbing and contract work,  
199 (C) income from nonutility operations, (D) revenues from lease of  
200 physical property not devoted to utility operation, and (E) receipts  
201 from the sale of residuals and other by-products obtained in  
202 connection with the production of gas or electricity. As used in this  
203 subsection, with regard to electric power, "sales for resale" includes  
204 sales of electric power capacity, power output from such capacity, and

205 all transmission charges in conjunction with such sales on or after May  
206 17, 1982. As used in this subsection, "net invoice price" means invoice  
207 price minus trade discounts.

208 (2) Each municipal utility that is established under chapter 101 or  
209 any other utility owned, leased, maintained, operated, managed or  
210 controlled by any unit of local government under any general statute  
211 or any public or special act manufacturing, selling or distributing gas  
212 or electricity to be used for light, heat or power shall pay a quarterly  
213 tax upon its gross earnings from such operations in this state. The tax  
214 imposed by this subsection shall be due and payable to the  
215 Commissioner of Revenue Services quarterly on or before the last day  
216 of the month next succeeding each calendar quarter.

217 (3) (A) No deductions shall be allowed from such gross earnings for  
218 any commission, rebate or other payment, except a refund resulting  
219 from an error or overcharge. (B) Deduction shall be allowed from such  
220 gross earnings for (i) any gross earnings from sales for resale of gas  
221 and electricity to public service corporations and municipal utilities,  
222 whether or not such purchasers are Connecticut public service  
223 companies or Connecticut municipal utilities, and whether or not such  
224 companies or utilities are subject to the tax imposed by this chapter, (ii)  
225 the net invoice price plus transportation costs of appliances using gas  
226 or electricity, where gross earnings included income from sales of such  
227 appliances, (iii) gross earnings from sales of natural gas to end users  
228 located outside this state, (iv) any gross earnings from sales for resale  
229 of natural gas to natural gas suppliers that have registered with the  
230 Department of Revenue Services for purposes of the tax imposed  
231 under this chapter, and (v) any gross earnings from sales of natural gas  
232 to exempt wholesale generators, as defined in 15 USC 79z-5a, to the  
233 extent such natural gas is used directly by such exempt wholesale  
234 generators in the generation of electricity.

235 (4) Each municipal utility shall, on or before the last day of January,

236 April, July and October of each year, submit to the Commissioner of  
237 Revenue Services a return on forms prescribed or furnished by the  
238 commissioner and signed by such utility's treasurer or the person  
239 performing the duties of treasurer, or by an authorized agent or officer,  
240 specifying (A) the name and location of such municipal utility, (B) the  
241 amount of its gross earnings from operations for the quarter ending  
242 with the last day of the preceding month, (C) the amount of its gross  
243 earnings from the sale or rental of appliances using gas or electricity  
244 and the cost of such appliances sold, cost to be interpreted as net  
245 invoice price plus transportation costs of such appliances, (D) the  
246 amount of its gross earnings from all sales for resale of gas and  
247 electricity, whether or not the purchasers are Connecticut public  
248 service companies or Connecticut municipal utilities and whether or  
249 not such companies or utilities are subject to the tax imposed by this  
250 chapter, (E) the amount of its gross earnings from all sales of natural  
251 gas to end users located outside this state, and (F) the amount of its  
252 gross earnings from all sales for resale of natural gas to natural gas  
253 suppliers that have registered with the Department of Revenue  
254 Services for purposes of the tax imposed under this chapter.

255 (5) Each municipal utility subject to the tax imposed under this  
256 subsection shall be taxed at the rate of five per cent upon the amount  
257 of its gross earnings from operations in each quarter, except that each  
258 municipal utility manufacturing, selling or distributing gas or  
259 electricity to be used for light, heat or power shall be taxed at the rate  
260 of four per cent upon the amount of its gross earnings from operations  
261 in each quarter allocable to residential service and shall not be taxed  
262 upon the amount of its gross earnings from operations in each quarter  
263 allocable to nonresidential service used directly by a company engaged  
264 in a manufacturing production process, in accordance with the  
265 Standard Industrial Classification Manual, United States Office of  
266 Management and Budget, 1987 edition, classifications 2000 to 3999,  
267 inclusive, or Sector 31, 32 or 33 in the North American Industrial  
268 Classification System United States Manual, United States Office of

269 Management and Budget, 1997 edition.

270 (c) (1) Each natural gas supplier that sells natural gas to be used for  
271 light, heat or power to an end user or users located in this state and  
272 that has registered with the Department of Revenue Services for  
273 purposes of the tax imposed under this chapter shall pay a quarterly  
274 tax upon its gross income from sales of natural gas to end users located  
275 in this state. The tax imposed by this subsection is due and payable to  
276 the Commissioner of Revenue Services quarterly on or before the last  
277 day of the month next succeeding each calendar quarter. The tax  
278 imposed under this subsection shall not apply to a company that is  
279 subject to the tax imposed under subsection (a) of this section, a  
280 municipal utility that is subject to the tax imposed under subsection (b)  
281 of this section, or a gas pipeline company or gas transmission company  
282 that is described in subsection (e) of this section.

283 (2) (A) No deduction shall be allowed from such gross income for  
284 any commission, rebate or other payment, except a refund resulting  
285 from an error or overcharge. (B) Deduction shall be allowed from such  
286 gross income for any gross income from sales of natural gas to exempt  
287 wholesale generators, as defined in 15 USC 79z-5a, to the extent such  
288 natural gas is used directly by such exempt wholesale generators of  
289 electricity.

290 (3) Each natural gas supplier that is subject to the tax imposed under  
291 this subsection shall, on or before the last day of January, April, July  
292 and October of each year, submit to the Commissioner of Revenue  
293 Services a return on forms prescribed or furnished by the  
294 commissioner and signed by such supplier's treasurer or the person  
295 performing the duties of treasurer, or by an authorized agent or officer  
296 of the natural gas supplier, specifying (A) the name and location of  
297 such person, (B) the amount of its gross income from sales of natural  
298 gas to end users located in this state for the quarter ending with the  
299 last day of the preceding month, (C) the amount of its gross income

300 from sales of natural gas to end users located outside this state for the  
301 quarter ending with the last day of the preceding month, and (D) such  
302 other information as the commissioner may require.

303 (4) Each natural gas supplier subject to the tax imposed under this  
304 subsection shall be taxed at the rate of five per cent upon the amount  
305 of its gross income from sales of natural gas to end users located in this  
306 state in each quarter, except that each such natural gas supplier shall  
307 be taxed at the rate of four per cent upon the amount of its gross  
308 income in each quarter allocable to residential service and shall not be  
309 taxed upon the amount of its gross income in each quarter allocable to  
310 nonresidential service used directly by a company engaged in a  
311 manufacturing production process, in accordance with the Standard  
312 Industrial Classification Manual, United States Office of Management  
313 and Budget, 1987 edition, classifications 2000 to 3999, inclusive, or  
314 Sector 31, 32 or 33 in the North American Industrial Classification  
315 System United States Manual, United States Office of Management and  
316 Budget, 1997 edition.

317 (5) No person, firm, corporation or municipality that is chartered or  
318 authorized by this state to transmit or sell gas within a franchise area  
319 shall transmit natural gas for any natural gas supplier that sells natural  
320 gas to be used for light, heat or power to an end user or users located  
321 in this state, unless such natural gas supplier has registered with the  
322 Department of Revenue Services for purposes of the tax imposed  
323 under this chapter. The provisions of this subdivision shall not apply  
324 to the transmission of gas for any seller that is a gas company, as  
325 defined in section 16-1, that is subject to the tax imposed under  
326 subsection (a) of this section; a municipal gas utility that is established  
327 under chapter 101 or any other gas utility owned, leased, maintained,  
328 operated, managed or controlled by any unit of local government  
329 under any general statute or any public or special act that is subject to  
330 the tax imposed under subsection (b) of this section; or a gas pipeline  
331 company or gas transmission company that is described in subsection

332 (e) of this section.

333 (6) The Commissioner of Revenue Services may make public the  
334 names and addresses of each natural gas supplier that sells natural gas  
335 to be used for light, heat or power to an end user or users located in  
336 this state and that has registered with the Department of Revenue  
337 Services for purposes of the tax imposed under this chapter, and that is  
338 not a gas company, as defined in section 16-1, that is subject to the tax  
339 imposed under subsection (a) of this section; a municipal gas utility  
340 established under chapter 101 or any other gas utility owned, leased,  
341 maintained, operated, managed or controlled by any unit of local  
342 government under any general statute or any public or special act that  
343 is subject to the tax imposed under subsection (b) of this section; or a  
344 gas pipeline or gas transmission company that is described in  
345 subsection (e) of this section.

346 (d) (1) For purposes of this subsection, "gross earnings from  
347 providing electric transmission services or electric distribution  
348 services" includes (A) all income classified as income from providing  
349 electric transmission services or electric distribution services by the  
350 Department of Public Utility Control in the uniform system of accounts  
351 prescribed by the department, (B) the competitive transition  
352 assessment collected pursuant to section 16-245g, (C) the systems  
353 benefits charge collected pursuant to section 16-245l, (D) the  
354 assessment charged pursuant to section 16-245m, and (E) the  
355 assessment charged pursuant to section 16-245n. For purposes of this  
356 subsection, "gross earnings from providing electric transmission  
357 services or electric distribution services" shall not include income from  
358 providing electric transmission services or electric distribution services  
359 to a company engaged in a manufacturing production process, in  
360 accordance with the Standard Industrial Classification Manual, United  
361 States Office of Management and Budget, 1987 edition, classifications  
362 2000 to 3999, inclusive, or Sector 31, 32 or 33 in the North American  
363 Industrial Classification System United States Manual, United States

364 Office of Management and Budget, 1997 edition.

365 (2) Each electric distribution company, as defined in section 16-1,  
366 providing electric transmission services, as defined in section 16-1, or  
367 electric distribution services, as defined in section 16-1, shall pay a  
368 quarterly tax upon its gross earnings from providing electric  
369 transmission services or electric distribution services in this state. The  
370 tax imposed by this subsection is due and payable to the  
371 Commissioner of Revenue Services quarterly on or before the last day  
372 of the month next succeeding each calendar quarter.

373 (3) Each electric distribution company shall, on or before the last  
374 day of January, April, July and October of each year, submit to the  
375 Commissioner of Revenue Services a return on forms prescribed or  
376 furnished by the commissioner and signed by such company's  
377 treasurer or the person performing the duties of treasurer, or by an  
378 authorized agent or officer, with such other information as the  
379 Commissioner of Revenue Services deems necessary.

380 (4) Each electric distribution company subject to the tax imposed  
381 under this subsection shall be taxed at the rate of (A) eight and one-  
382 half per cent of its gross earnings from providing electric transmission  
383 services or electric distribution services allocable to other than  
384 residential service, and (B) six and eight-tenths per cent of such gross  
385 earnings from providing electric transmission services or electric  
386 distribution services allocable to residential service.

387 (e) Gas pipeline companies and gas transmission companies that do  
388 not manufacture or buy gas in this state for resale in this state shall not  
389 be subject to the provisions of this chapter or chapter 212a, but shall be  
390 subject to the provisions of chapter 208.

391 Sec. 2. Section 12-268a of the general statutes is repealed and the  
392 following is substituted in lieu thereof:

393 If the method of apportionment provided for in section 12-251 [,] or  
394 section 12-258 [or section 12-265] unfairly attributes to this state an  
395 undue proportion of its business activity, a company or municipal  
396 utility may petition for an alternate method of apportionment by filing  
397 with its return to the commissioner a statement of its objections and of  
398 such proposed other method of apportionment as it believes proper  
399 and equitable under the circumstances, accompanied by supporting  
400 details and proofs. The commissioner, within a reasonable time  
401 thereafter, shall notify the company or municipal utility whether the  
402 proposed method is accepted as reasonable and equitable and, if so  
403 accepted, shall adjust the return and tax accordingly. With respect to  
404 any company or municipal utility included in section 12-249 [,] or  
405 section 12-256, [or section 12-264,] the commissioner, at any time  
406 within three years after the filing by it of a return based on the method  
407 of apportionment provided for in section 12-249 [,] or section 12-258,  
408 [or section 12-265,] may change such method if, in [his] the  
409 commissioner's opinion, such method has operated or will operate so  
410 as to subject the company or municipal utility to taxation on a lesser  
411 portion of its business activity than is properly and equitably  
412 attributable to this state, and shall thereupon proceed to assess and  
413 collect taxes in accordance with such method as so changed by [him]  
414 the commissioner.

415 Sec. 3. Section 16-244a of the general statutes is repealed and the  
416 following is substituted in lieu thereof:

417 (a) For purposes of this section, "base rates" means the total amount  
418 charged by an electric company to each end use customer class, as  
419 defined in its rate order in effect on July 1, 1998, for the fully bundled  
420 costs of electricity, including any customer service charge and any  
421 demand charge.

422 (b) Notwithstanding sections 16-19 and 16-19a for the period from  
423 July 1, 1998, until December 31, 1999, the base rates paid to an electric

424 company by any customer in the state for electric services, other than a  
425 customer receiving electric services under a special contract, shall not  
426 exceed the base rates that have been approved by the Department of  
427 Public Utility Control for that electric company as of December 31,  
428 1996. Base rates shall be adjusted to the extent of any increase or  
429 decrease in state taxes attributable to [sections 12-264 and 12-265]  
430 section 12-264, as amended by this act, and any other increase or  
431 decrease in state or federal taxes resulting from a change in state or  
432 federal law and shall continue to be adjusted during such period  
433 pursuant to section 16-19b. Base rates may be adjusted, by an increase  
434 or decrease, to the extent approved by the department, in the event  
435 that the revenue requirements of the company are affected as the result  
436 of changes in legislative enactments other than public act 98-28\*,  
437 administrative requirements or accounting standards occurring after  
438 July 1, 1998, provided such accounting standards are adopted by  
439 entities independent of the company that have authority to issue such  
440 standards. Savings attributable to a reduction in taxes shall not be  
441 shifted between customer classes. The calculation of base rates for  
442 purposes of this section shall not be affected by the change in billing  
443 format provided in subsection (b) of section 16-244e.

444 Sec. 4. Subdivision (2) of subsection (a) of section 16-244c of the  
445 general statutes is repealed and the following is substituted in lieu  
446 thereof:

447 (2) Not later than October 1, 1999, the Department of Public Utility  
448 Control shall establish the standard offer for each electric distribution  
449 company, effective January 1, 2000, which shall allocate the costs of  
450 such company among electric transmission and distribution services,  
451 electric generation services, the competitive transition assessment and  
452 the systems benefits charge. The department shall hold a hearing that  
453 shall be conducted as a contested case in accordance with chapter 54 to  
454 establish the standard offer. The standard offer shall provide that the  
455 total rate charged under the standard offer, including electric

456 transmission and distribution services, the conservation and load  
457 management program charge described in section 16-245m, the  
458 renewable energy investment charge described in section 16-245n,  
459 electric generation services, the competitive transition assessment and  
460 the systems benefits charge shall be at least ten per cent less than the  
461 base rates, as defined in section 16-244a, in effect on December 31,  
462 1996. The standard offer shall be adjusted to the extent of any increase  
463 or decrease in state taxes attributable to [sections 12-264 and 12-265]  
464 section 12-264, as amended by this act, and any other increase or  
465 decrease in state or federal taxes resulting from a change in state or  
466 federal law and shall continue to be adjusted during such period  
467 pursuant to section 16-19b. Notwithstanding the provisions of section  
468 16-19b, the provisions of said section 16-19b shall apply to electric  
469 distribution companies. The standard offer may be adjusted, by an  
470 increase or decrease, to the extent approved by the department, in the  
471 event that (A) the revenue requirements of the company are affected as  
472 the result of changes in legislative enactments other than public act 98-  
473 28\*\*, administrative requirements or accounting standards occurring  
474 after July 1, 1998, provided such accounting standards are adopted by  
475 entities independent of the company that have authority to issue such  
476 standards, or (B) an electric distribution company incurs extraordinary  
477 and unanticipated expenses required for the provision of safe and  
478 reliable electric service to the extent necessary to provide such service.  
479 Savings attributable to a reduction in taxes shall not be shifted between  
480 customer classes.

481 Sec. 5. Section 12-265 of the general statutes is repealed.

482 Sec. 6. This act shall take effect July 1, 2001, and shall be applicable  
483 to calendar quarters commencing on and after said date.

**FIN**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Revenue Loss

**Affected Agencies:** Department of Revenue Services

**Municipal Impact:** None

**Explanation**

**State Impact:**

The bill allows gas companies and suppliers to deduct from taxable gross earnings any receipts from sales of natural gas to federally designated “exempt wholesale generators”. This exclusion is expected to result in a significant revenue loss and will also preclude future a revenue gain from new gas fired electric generating plants that come on line. The amount of the revenue loss is not known at this time.

The other changes contained in the bill are primarily technical and conform to existing practice of the Department of Revenue Services. Therefore they result in no significant changes in revenue and provide for more efficient administration of the utilities gross earnings tax in a de-regulated environment.

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**OLR BILL ANALYSIS**

sHB 6880

***AN ACT UPDATING PROVISIONS RELATING TO THE UTILITY COMPANIES' GROSS EARNINGS TAX.***

**SUMMARY:**

This bill makes various changes in the gross earnings tax on gas and electric companies, natural gas suppliers, and gas transmission and pipeline companies. It:

1. allows private and municipal gas companies and suppliers to deduct from taxable gross earnings any gross receipts from sales of natural gas to federally designated "exempt wholesale generators," if the generator uses the gas directly to generate electricity;
2. eliminates specific methods for gas and electric companies that do business in Connecticut and other states to apportion their taxable gross earnings to Connecticut based on sales ratios or relative miles of transmission pipes or wires and makes conforming changes; and
3. reorganizes and makes more specific the laws governing the gross earnings tax (see COMMENT).

It also eliminates obsolete language concerning (1) deductions for federal BTU energy tax payments and (2) completed phase-outs of the tax on sales to manufacturing companies and sales of steam.

EFFECTIVE DATE: July 1, 2001 and applicable to calendar quarters beginning on and after that date.

**DEDUCTION FOR SALES TO EXEMPT WHOLESAL  
GENERATORS**

Under current law and the bill, gas companies must pay a quarterly 5% tax (4% on sales to residential customers) on their gross earnings

from manufacturing, selling, or distributing natural gas for heat, light, or power. Certain revenues, such as those from wholesale sales, sales of appliances, and sales to out-of-state users, are exempt. This bill adds an exemption for gross revenues from natural gas sales to entities that the Federal Energy Regulatory Commission determines are exempt wholesale generators of electricity under federal law. To be exempt the generator must use the gas directly to generate electricity.

Federal law defines an “exempt wholesale generator” as an entity that, directly or through affiliates, owns, operates, or owns and operates facilities used to generate electricity. The electricity must be generated exclusively for wholesale sale or the generating facility must be leased to one or more utilities and the lease must be treated as a wholesale sale under federal law (15 USCA 79z-5a(1) and (2)).

## **MULTISTATE APPORTIONMENT**

Electric and gas companies, municipal utilities, and gas suppliers that are not gas distribution, pipeline, or transmission companies must allocate a share of their gross earnings to Connecticut for tax purposes if part of their business is out-of-state. Under current law, a gas or electric company must allocate gross earnings to Connecticut based on the ratio of the miles of gas mains or electric wires it operated in the state on the first and last day of the preceding calendar year to its total miles of pipes or wires. Other types of gas suppliers must allocate their earnings based on their ratio of sales to Connecticut end users during the taxable quarter to their total sales for the quarter.

This bill eliminates both allocation methods. Under the bill, the tax is still based on operations or sales in Connecticut but the exact formula for apportioning company earnings for tax purposes is not specified. The bill also eliminates companies’ required quarterly reporting to the Department of Revenue Services on their miles of pipes and wires and the revenue services commissioner’s authority to adjust the apportionment method when he finds it is not operating to allocate a fair proportion of a company’s revenue to the state.

## **COMMENT**

### ***Inaccurate Reference***

The bill replaces a provision allowing gas and electric companies to deduct payments from “energy conservation loan programs” with a more specific one allowing them to deduct payments to the economic and community development commissioner under CGS § 16-40b(f). This reference should apparently be to CGS § 16a-40b(f), which requires companies to pay amounts assessed by the commissioner for the Energy Conservation Loan Fund, the Home Heating System Loan Fund, and the Housing Repayment and Revolving Loan Fund.

**COMMITTEE ACTION**

Energy and Technology Committee

Change of Reference  
Voice Vote

Finance, Revenue and Bonding Committee

Joint Favorable Substitute  
Yea 45    Nay 0