



General Assembly

January Session, 2001

Raised Bill No. 6880

LCO No. 4157

Referred to Committee on Energy and Technology

Introduced by:
(ET)

**AN ACT MAKING OBSOLETE PROVISIONS IN THE UTILITIES
COMPANIES' GROSS EARNING TAX STATUTES.**

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 Section 12-264 of the general statutes is repealed and the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) For the purposes of this section, "municipal utility" means a
114 municipal utility that is established under chapter 101, "foreign

115 municipal electric utility" shall have the same meaning as in section 12-
116 49, "public service company" shall have the same meaning as in section
117 16-1, and "net invoice price" means invoice price less trade discounts.

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

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

139 (3) No deductions shall be allowed from gross earnings for any
140 commission, rebate or other payment, except (A) a refund resulting
141 from an error or overcharge, (B) gross earnings from sales for resale of
142 gas to any public service corporations and municipal utilities, whether
143 or not such purchasers are Connecticut public service companies,
144 whether such company or utility is subject to the tax imposed by this
145 chapter, (C) the net invoice price plus transportation costs of
146 appliances using gas, where gross earnings included income from sales

147 of such appliances, (D) any payment that is made by a company or
148 utility to the Commissioner of Economic and Community
149 Development and that represents the company or utility's allocable
150 portion of the product that is calculated by said commissioner under
151 subsection (f) of section 16-40b, (E) gross earnings from sales of natural
152 gas to end users located outside this state, and (F) gross earnings from
153 sales for resale of natural gas to persons that are natural gas suppliers
154 and that have registered with the Department of Revenue Services for
155 purposes of the tax imposed under this chapter.

156 (4) Each company or utility subject to the tax imposed under this
157 subsection shall, on or before the last day of January, April, July and
158 October of each year, render to the Commissioner of Revenue Services
159 a return on forms prescribed or furnished by the commissioner and
160 signed by its treasurer or the person performing the duties of
161 treasurer, or by an authorized agent or officer of the company or
162 utility, specifying (A) the name and location of such company, (B) the
163 amount of its gross earnings from operations for the quarter ending
164 with the last day of the preceding month, (C) the amount of gross
165 earnings from the sale or rental of appliances using gas and the cost of
166 such appliances sold, cost to be interpreted as net invoice price plus
167 transportation costs of such appliances, (D) the amount of gross
168 earnings from all sales for resale of gas to a public service company,
169 municipal utility, or foreign municipal electric utility, whether such
170 company or utility is subject to the tax imposed by this chapter, (E) the
171 amount of gross earnings from all sales of natural gas to end users
172 located outside this state, and (F) the amount of gross earnings from all
173 sales for resale of natural gas to persons that are natural gas suppliers
174 and that have registered with the Department of Revenue Services for
175 purposes of the tax imposed under this chapter.

176 (5) Each foreign municipal utility shall be taxed at the rate of five
177 per cent upon the amount of its gross earnings from operations in each
178 quarter, and each company manufacturing, selling or distributing gas
179 to be used for light, heat or power shall be taxed at the rate of four per

180 cent upon the amount of its gross earnings from operations in each
181 quarter allocable to residential service and shall not be taxed upon the
182 amount of its gross earnings from operations in each quarter allocable
183 to nonresidential service used directly by a company engaged in a
184 manufacturing production process, in accordance with the Standard
185 Industrial Classification Manual, United States Office of Management
186 and Budget, 1987 edition, classifications 2000 to 3999, inclusive, or
187 Sector 31, 32 or 33 in the North American Industrial Classification
188 System United States Manual, United States Office of Management and
189 Budget, 1997 edition.

190 (c) (1) As used in this subsection, "gross earnings" includes (A) all
191 income classified as operating revenues by the Department of Public
192 Utility Control in the uniform systems of accounts prescribed by said
193 department for operations within the taxable quarter and, with respect
194 to each such company, (B) all income classified in said uniform
195 systems of accounts as income from merchandising, jobbing and
196 contract work, (C) income from nonutility operations, (D) revenues
197 from lease of physical property not devoted to utility operation, and
198 (E) receipts from the sale of residuals and other by-products obtained
199 in connection with the production of gas or electricity and "sales for
200 resale" includes sales of electric power capacity, power output from
201 such capacity, and all transmission charges in conjunction with such
202 sales on or after May 17, 1982.

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

212 (3) No deductions shall be allowed from such gross earnings for any
213 commission, rebate or other payment, except (A) a refund resulting
214 from an error or overcharge, (B) gross earnings from sales for resale of
215 gas and electricity to public service corporations and municipal
216 utilities, whether or not such purchasers are Connecticut public service
217 companies, municipal utilities, or foreign municipal electric utilities,
218 whether or not such company or utility are subject to the tax imposed
219 by this chapter, (C) the net invoice price plus transportation costs of
220 appliances using gas or electricity, where gross earnings included
221 income from sales of such appliances, (D) gross earnings from sales of
222 natural gas to end users located outside this state, and (E) gross
223 earnings from sales for resale of natural gas to persons that are natural
224 gas suppliers and that have registered with the Department of
225 Revenue Services for purposes of the tax imposed under this chapter.

226 (4) Each municipal utility shall, on or before the last day of January,
227 April, July and October of each year, render to the Commissioner of
228 Revenue Services a return on forms prescribed or furnished by the
229 commissioner and signed by its treasurer or the person performing the
230 duties of treasurer, or by an authorized agent or officer, specifying (A)
231 the name and location of such municipal utility, (B) the amount of its
232 gross earnings from operations for the quarter ending with the last day
233 of the preceding month, (C) the amount of its gross earnings from the
234 sale or rental of appliances using gas or electricity and the cost of such
235 appliances sold, cost to be interpreted as net invoice price plus
236 transportation costs of such appliances, (D) the amount of its gross
237 earnings from all sales for resale of gas or electricity to a public service
238 company, municipal utility, or a foreign municipal utility, whether
239 such company or utility is subject to the tax imposed by this chapter,
240 (E) the amount of its gross earnings from all sales of natural gas to end
241 users located outside this state, and (F) the amount of its gross
242 earnings from all sales for resale of natural gas to persons that are
243 natural gas suppliers and that have registered with the Department of
244 Revenue Services for purposes of the tax imposed under this chapter.

245 (5) Each municipal utility subject to the tax imposed under this
246 subsection shall be taxed at the rate of five per cent upon the amount
247 of its gross earnings from operations in each quarter, except that each
248 municipal utility manufacturing, selling or distributing gas or
249 electricity to be used for light, heat or power shall be taxed at the rate
250 of four per cent upon the amount of its gross earnings from operations
251 in each quarter allocable to residential service and shall not be taxed
252 upon the amount of its gross earnings from operations in each quarter
253 allocable to nonresidential service used directly by a company engaged
254 in a manufacturing production process, in accordance with the
255 Standard Industrial Classification Manual, United States Office of
256 Management and Budget, 1987 edition, classifications 2000 to 3999,
257 inclusive, or Sector 31, 32 or 33 in the North American Industrial
258 Classification System United States Manual, United States Office of
259 Management and Budget, 1997 edition.

260 (d) (1) Each natural gas supplier that sells natural gas to be used for
261 light, heat or power to an end user or users located in this state and
262 that has registered with the Department of Revenue Services for
263 purposes of the tax imposed under this chapter shall pay a quarterly
264 tax upon its gross income from sales of natural gas to end users located
265 in this state. The tax imposed by this subsection is due and payable to
266 the Commissioner of Revenue Services quarterly on or before the last
267 day of the month next succeeding each calendar quarter. The tax
268 imposed under this subsection shall not apply to a company that is
269 subject to the tax imposed under subsection (b) of this section, a
270 municipal utility that is subject to the tax imposed under subsection (b)
271 of this section, or a gas pipeline company or gas transmission company
272 that is described in subsection (f) of this section.

273 (2) No deduction shall be allowed from such gross income for any
274 commission, rebate or other payment, except a refund resulting from
275 an error or overcharge.

276 (3) Each natural gas supplier that is subject to the tax imposed under

277 this subsection shall, on or before the last day of January, April, July
278 and October of each year, render to the Commissioner of Revenue
279 Services a return on forms prescribed or furnished by the
280 commissioner and signed by its treasurer or the person performing the
281 duties of treasurer, or by an authorized agent or officer of the natural
282 gas supplier, specifying (A) the name and location of such person, (B)
283 the amount of its gross income from sales of natural gas to end users
284 located in this state for the quarter ending with the last day of the
285 preceding month, (C) the amount of its gross income from sales of
286 natural gas to end users located outside this state for the quarter
287 ending with the last day of the preceding month, and (D) such other
288 information as the commissioner may require.

289 (4) Each natural gas supplier subject to the tax imposed under this
290 subsection shall be taxed at the rate of five per cent upon the amount
291 of its gross income from sales of natural gas to end users located in this
292 state in each quarter, except that each such natural gas supplier shall
293 be taxed at the rate of four per cent upon the amount of its gross
294 income in each quarter allocable to residential service and shall not be
295 taxed upon the amount of its gross income in each quarter allocable to
296 nonresidential service used directly by a company engaged in a
297 manufacturing production process, in accordance with the Standard
298 Industrial Classification Manual, United States Office of Management
299 and Budget, 1987 edition, classifications 2000 to 3999, inclusive, or
300 Sector 31, 32 or 33 in the North American Industrial Classification
301 System United States Manual, United States Office of Management and
302 Budget, 1997 edition.

303 (5) No person, firm, corporation or municipality that is chartered or
304 authorized by this state to transmit or sell gas within a franchise area
305 shall transmit natural gas for any natural gas supplier that sells natural
306 gas to be used for light, heat or power to an end user or users located
307 in this state, unless such natural gas supplier has registered with the
308 Department of Revenue Services for purposes of the tax imposed
309 under this chapter. The provisions of this subdivision shall not apply

310 to the transmission of gas for any seller that is a gas company, as
311 defined in section 16-1, that is subject to the tax imposed under
312 subsection (b) of this section; a municipal gas utility that is established
313 under chapter 101 or any other gas utility owned, leased, maintained,
314 operated, managed or controlled by any unit of local government
315 under any general statute or any public or special act that is subject to
316 the tax imposed under subsection (c) of this section; or a gas pipeline
317 company or gas transmission company that is described in subsection
318 (f) of this section.

319 (6) The Commissioner of Revenue Services may make public the
320 names and addresses of each natural gas supplier that sells natural gas
321 to be used for light, heat or power to an end user or users located in
322 this state and has registered with the Department of Revenue Services
323 for purposes of the tax imposed under this chapter, and that is not a
324 gas company, as defined in section 16-1, that is subject to the tax
325 imposed under subsection (b) of this section; a municipal gas utility
326 established under chapter 101 or any other gas utility owned, leased,
327 maintained, operated, managed or controlled by any unit of local
328 government under any general statute or any public or special act that
329 is subject to the tax imposed under subsection (c) of this section; or a
330 gas pipeline or gas transmission company that is described in
331 subsection (f) of this section.

332 (e) (1) For purposes of this subsection, "gross earnings" from
333 providing electric transmission services or electric distribution services
334 includes (A) all income classified as income from providing electric
335 transmission services or electric distribution services by the
336 Department of Public Utility Control in the uniform system of accounts
337 prescribed by the department, (B) the competitive transition
338 assessment collected pursuant to section 16-245g, (C) the systems
339 benefits charge collected pursuant to section 16-245l, (D) the
340 assessment charged pursuant to section 16-245m, and (E) the
341 assessment charged pursuant to section 16-245n. Such gross earnings
342 shall not include income from providing electric transmission services

343 or electric distribution services to a company engaged in a
344 manufacturing production process, in accordance with the Standard
345 Industrial Classification Manual, United States Office of Management
346 and Budget, 1987 edition, classifications 2000 to 3999, inclusive, or
347 Sector 31, 32 or 33 in the North American Industrial Classification
348 System United States Manual, United States Office of Management and
349 Budget, 1997 edition.

350 (2) Each electric distribution company, as defined in section 16-1,
351 providing electric transmission services, as defined in section 16-1, or
352 electric distribution services, as defined in section 16-1, shall pay a
353 quarterly tax upon its gross earnings from providing electric
354 transmission services or electric distribution services in this state. The
355 tax imposed by this subsection is due and payable to the
356 Commissioner of Revenue Services quarterly on or before the last day
357 of the month next succeeding each calendar quarter.

358 (3) Each electric distribution company shall, on or before the last
359 day of January, April, July and October of each year, render to the
360 Commissioner of Revenue Services a return on forms prescribed or
361 furnished by the commissioner and signed by its treasurer, or the
362 person performing the duties of treasurer, or of an authorized agent or
363 officer, with such other information as the Commissioner of Revenue
364 Services deems necessary.

365 (4) Each electric distribution company subject to the tax imposed
366 under this subsection shall be taxed at the rate of (A) eight and one-
367 half per cent of its gross earnings from providing electric transmission
368 services or electric distribution services allocable to other than
369 residential service and (B) six and eight-tenths per cent of such gross
370 earnings from providing electric transmission services or electric
371 distribution services allocable to residential service.

372 (f) Gas pipeline companies and gas transmission companies that do
373 not manufacture or buy gas in this state for resale in this state shall not
374 be subject to the provisions of this chapter and chapter 212a, but shall

375 be subject to the provisions of chapter 208.

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

378 If the method of apportionment provided for in section 12-251 [.] or
379 section 12-258 [or section 12-265] unfairly attributes to this state an
380 undue proportion of its business activity, a company or municipal
381 utility may petition for an alternate method of apportionment by filing
382 with its return to the commissioner a statement of its objections and of
383 such proposed other method of apportionment as it believes proper
384 and equitable under the circumstances, accompanied by supporting
385 details and proofs. The commissioner, within a reasonable time
386 thereafter, shall notify the company or municipal utility whether the
387 proposed method is accepted as reasonable and equitable and, if so
388 accepted, shall adjust the return and tax accordingly. With respect to
389 any company or municipal utility included in section 12-249 [.] or
390 section 12-256, [or section 12-264,] the commissioner, at any time
391 within three years after the filing by it of a return based on the method
392 of apportionment provided for in section 12-249 [.] or section 12-258,
393 [or section 12-265,] may change such method if, in [his] the
394 commissioner's opinion, such method has operated or will operate so
395 as to subject the company or municipal utility to taxation on a lesser
396 portion of its business activity than is properly and equitably
397 attributable to this state, and shall thereupon proceed to assess and
398 collect taxes in accordance with such method as so changed by [him]
399 the commissioner.

400 Sec. 3. Section 12-265 of the general statutes is repealed.

401 Sec. 4. This act shall take effect July 1, 2001, for calendar quarters
402 commencing on or after said date.

Statement of Purpose:

To render obsolete provisions in the utilities companies gross earnings tax statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]