

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2897

As Amended by House Committee of the Whole

Brief*

HB 2897 would amend KSA 79-201f, to repeal an exemption for certain personal property moving in interstate commerce; and KSA 79-5a01, to clarify that the definition of public utility would include brokers that now or hereafter own, control, and hold for resale stored natural gas.

Background

The *Kansas Constitution* was amended in 1992 to explicitly require certain utility inventories, including stored natural gas, to be taxable. The Kansas Supreme Court recently ruled, however, that there is under current law no authority to tax stored natural gas owned by non-resident power companies. (Resident power companies that are in fact classified as state-assessed public utilities remain un-affected by the decision.)

Proponents said that HB 2897 would restore the intent of the Legislature and the people relative to the 1992 constitutional amendment requiring the stored natural gas to be taxable. A memo from the Property Valuation Division (PVD) noted that the Attorney General has opined that the Legislature may define the term "public utility" as long as the definition remains consistent with the commonly understood meaning of the term; and that the proposed language in HB 2897 does indeed, in the opinion of the Department of Revenue, comport with the commonly understood meaning of the term.

In response to a concern from one conferee that the amendment to KSA 79-201f relative to property moving in interstate commerce could

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

subject certain items moved by motor carriers or railroads to taxation, a PVD staff attorney noted that such items would remain exempt as merchants' inventory. The House Committee of the Whole nevertheless amended the bill to provide an additional assurance that such items would remain exempt.

The consensus estimates upon which the Governor's Budget are based, including the estimates for property taxes produced from state levies, were prepared without knowledge of the most recent decision by the court, which was released very late in October. Absent enactment of HB 2897 restoring the newly exempted property to the tax rolls, the amount produced by the 21.5 mills in state property tax levies will be less than assumed in the Governor's Budget. Although PVD had no statewide data, the amount of valuation exempted pursuant to the court decision from one county alone (Meade) which was provided to the Committee would reduce receipts to state funds by at least \$0.390 million.