

MINUTES OF THE MEETING  
RULES COMMITTEE  
March 26, 1981

The Rules Committee met Thursday, March 26, 1981 in Room 331 of the State Capitol. Senator Stan Stephens, Chairman, called the meeting to order at 1:05 p.m.

ROLL CALL

All members were present except Senators Smith and Graham excused.

ACTION TAKEN ON S.B. 172

"TAXING PRIVATELY GENERATED ELECTRICITY TRANSPORTED THROUGH  
A PUBLICLY OWNED TRANSMISSION SYSTEM..."

Chairman Stephens explained that S.B. 172 is before the Rules Committee to settle a technical question and not to hear the bill or take testimony. However, if there are questions the members wish to ask the witnesses they will be recognized by the Chair.

There is some question whether the bill has been changed to the extent the intent is different.

Senator Manley explained the journey of how the original bill was amended in the Taxation Committee. He stated that all we did in the amendment was to specifically specify how the tax is going to be derived, and in no way has the intent of the original bill been changed. He added that if the Rules Committee rules against this bill, you would have to go back and rule against more than half the bills in the Senate.

Senator Turnage stated that to begin with the bill was intended to impose a tax on privately generated electricity transported through a publicly owned transmission system. It was then amended to increase the tax on privately generated electricity.

Senator Boylan asked if there had been testimony for or against this bill when it was heard in Taxation, and who offered the amendment? It was not revealed who placed the amendment.

Senator Towe was addressed. He stated this is a tax on the production of electricity generated and not a property tax, and the present law covers the same scope, and rather than propose a new law we went to the existing law. The figures are almost identical, but it is much easier to measure production.

Senator Boylan asked if it would be proper to move it back to the Senate Taxation Committee?

Chairman Stephens stated that he thinks this bill is entirely different than the introduced bill.

Joint Rules Committee

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Senator Kolstad asked that Gene Phillips, Pacific Power & Light be given the opportunity to express his views. Mr. Phillips stated that Montana Dakota Utilities had no objection to the introduced bill, but strenuously objects to the amended version.

Chairman Stephens referred to the fiscal note and pointed out that the original bill referred to only six lines, but the amended fiscal note takes in every line.

Senator Turnage moved that the bill violates Joint Rule 6-15; ('No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose 'Montana Constitution Art. V, Sec. 11(1)'), and that we rule against accepting the bill in its amended form. Motion carried. Senator Norman is recorded voting "no".

Meeting adjourned at 1:25 p.m.

  
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Stan Stephens, Chairman

## ROLL CALL

RULES

COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3.26.

NAME	PRESENT	ABSENT	EXCUSED
Stan Stephens, Chairman	✓		
Frank Hazelbaker, V. Chrm.	✓		
Jean Turnage	✓		
Allen Kolstad	✓		
Ed Smith		Excused	
Jack Galt	✓		
Chet Blaylock	✓		
Bill Norman	✓		
Carol Graham		✓	
Paul Boylan	✓		

Each day attach to minutes.

# STANDING COMMITTEE REPORT

March 26, 19 31

MR. **PRESIDENT:**

We, your committee on **RULES**

having had under consideration **SENATE** Bill No. **172**

Respectfully report as follows: That **SENATE** Bill No. **172**

~~DO PASS~~

DO NOT PASS

## SENATE COMMITTEE

*Rules*

Date

*2.26**S.B.*

Bill No.

*172*

Time

*1:24*

NAME	YES	NO
FRANK HAZELBAKER, V. CHRM.	✓	
JEAN TURNAGE	✓	
ALLEN KOLSTAD	✓	
ED SMITH		<i>absent</i>
JACK GALT	✓	
CHET BLAYLOCK	✓	
BILL NORMAN		✓
CAROL GRAHAM		<i>absent</i>
PAUL BOYLAN	✓	
STAN STEPHENS, CHRM.	✓	
	7	1

*Paul McKay*  
Secretary

*Stan Stephens*  
Chairman

**Motion:** Senator Turnage moved that S.B. 172 violates Joint Rule 6-15. "No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose (Montana Constitution Art. V, Sec. 11(1)).", and DO NOT PASS. Motion carried.

(include enough information on motion—put with yellow copy of committee report.)

## SENATE BILL 172 -- AMENDED BILL

In its introduced form, the limited purpose of Senate Bill 172 was to tax privately generated electricity transported through a publicly owned transmission system. As amended, the purpose of the Bill is to increase the existing electrical energy producer's tax applicable to all electricity generated in the state and allocate the increase to counties with tax exempt transmission systems.

These purposes are distinctly different. The introduced bill intended to create a new tax. The amended bill intends to increase an existing tax and allocate the increase to counties with publicly owned transmission systems. As amended, Senate Bill 172 violates Article V, Section 11 of the Montana Constitution:

"A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose."

There are other problems with Senate Bill 172. First, there is a 250% increase in the electrical energy producer's tax. In 1980, The Montana Power Company's electrical energy producer's tax was \$1,287,228. Increasing the rate from .2 mills to .5 mills would increase the tax to \$3,218,071. Projecting electrical energy production from Colstrip Units 3 & 4 for 1986, the Company's tax would further increase by \$1,999,700; the total tax, then, would be approximately \$5,217,771. This increased taxation will result in higher electric rates for The Montana Power Company's customers.

Second, customers of privately owned utilities will, through their rates, subsidize customers of cooperatives who purchase their power from federal generation sources and transmit it through tax exempt lines. There is no state taxation of this electrical generation.

Additionally, the Fiscal Note indicates that the increased revenue will accrue to only six counties. The fact of the matter is, there are far more counties with tax exempt transmission systems; for example, the Bureau of Reclamation lines which are utilized by a number of cooperatives.

The Bill, then, is based on an incomplete premise. On its face it appears to be aimed at only one line -- the proposed BPA 500 kv line. There are, however, Federal transmission lines running through many counties of the state, not just six.

Questions comparing the impact costs incurred by a county because a publicly owned transmission line is constructed through it should be answered. Since electric transmission lines cost county government very little because they require no services from the government, are the large sums to be allocated to the counties justified? A rational justification for a 250% increase in the present rate of taxation simply has not been stated and should be provided.