

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1815

02/27/2017 Authored by Newberger
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act

1.2 relating to taxation; property; eliminating the personal property tax on electric

1.3 generation systems; instituting a new valuation method; authorizing replacement

1.4 aid; repealing exemptions; requiring a report; amending Minnesota Statutes 2016,

1.5 sections 216B.1621, subdivision 2; 216B.164, subdivision 2a; 216B.2424,

1.6 subdivision 5; 272.02, subdivisions 9, 10; 272.025, subdivision 1; 273.13,

1.7 subdivision 24; 273.1325, subdivision 1; 273.37, subdivision 1; proposing coding

1.8 for new law in Minnesota Statutes, chapters 273; 477A; repealing Minnesota

1.9 Statutes 2016, sections 272.02, subdivisions 24, 29, 33, 44, 45, 47, 52, 54, 55, 56,

1.10 68, 69, 70, 71, 84, 89, 92, 93, 96, 99; 272.0211.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2016, section 216B.1621, subdivision 2, is amended to read:

1.13 Subd. 2. **Commission approval.** (a) The commission shall approve an agreement under

1.14 this section upon finding that:

1.15 ~~(1) the proposed electric service power generation facility could reasonably be expected~~

1.16 ~~to qualify for a market value exclusion under section 272.0211;~~

1.17 ~~(2)~~ (1) the public utility has a contractual option to purchase electric power from the

1.18 proposed facility; and

1.19 ~~(3)~~ (2) the public utility can use the output from the proposed facility to meet its future

1.20 need for power as demonstrated in the most recent resource plan filed with and approved

1.21 by the commission under section 216B.2422.

1.22 (b) Sections 216B.03, 216B.05, 216B.06, 216B.07, 216B.16, 216B.162, and 216B.23

1.23 do not apply to an agreement under this section.

1.24 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

2.1 Sec. 2. Minnesota Statutes 2016, section 216B.164, subdivision 2a, is amended to read:

2.2 Subd. 2a. **Definitions.** (a) For the purposes of this section, the following terms have the
2.3 meanings given them.

2.4 (b) "Aggregated meter" means a meter located on the premises of a customer's owned
2.5 or leased property that is contiguous with property containing the customer's designated
2.6 meter.

2.7 (c) "Capacity" means the number of megawatts alternating current (AC) at the point of
2.8 interconnection between a distributed generation facility and a utility's electric system.

2.9 (d) "Cogeneration" means a combined process whereby electrical and useful thermal
2.10 energy are produced simultaneously.

2.11 (e) "Contiguous property" means property owned or leased by the customer sharing a
2.12 common border, without regard to interruptions in contiguity caused by easements, public
2.13 thoroughfares, transportation rights-of-way, or utility rights-of-way.

2.14 (f) "Customer" means the person who is named on the utility electric bill for the premises.

2.15 (g) "Designated meter" means a meter that is physically attached to the customer's facility
2.16 that the customer-generator designates as the first meter to which net metered credits are
2.17 to be applied as the primary meter for billing purposes when the customer is serviced by
2.18 more than one meter.

2.19 (h) "Distributed generation" means a facility that:

2.20 (1) has a capacity of ten megawatts or less;

2.21 (2) is interconnected with a utility's distribution system, over which the commission has
2.22 jurisdiction; and

2.23 (3) generates electricity from natural gas, renewable fuel, or a similarly clean fuel, and
2.24 may include waste heat, cogeneration, or fuel cell technology.

2.25 (i) "High-efficiency distributed generation" means a distributed energy facility that has
2.26 a minimum efficiency of 40 percent, as calculated under Minnesota Statutes 2014, section
2.27 272.0211, subdivision 1.

2.28 (j) "Net metered facility" means an electric generation facility constructed for the purpose
2.29 of offsetting energy use through the use of renewable energy or high-efficiency distributed
2.30 generation sources.

2.31 (k) "Renewable energy" has the meaning given in section 216B.2411, subdivision 2.

3.1 (l) "Standby charge" means a charge imposed by an electric utility upon a distributed
3.2 generation facility for the recovery of costs for the provision of standby services, as provided
3.3 for in a utility's tariffs approved by the commission, necessary to make electricity service
3.4 available to the distributed generation facility.

3.5 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

3.6 Sec. 3. Minnesota Statutes 2016, section 216B.2424, subdivision 5, is amended to read:

3.7 Subd. 5. **Mandate.** (a) A public utility, as defined in section 216B.02, subdivision 4,
3.8 that operates a nuclear-powered electric generating plant within this state must construct
3.9 and operate, purchase, or contract to construct and operate (1) by December 31, 1998, 50
3.10 megawatts of electric energy installed capacity generated by farm-grown closed-loop biomass
3.11 scheduled to be operational by December 31, 2001; and (2) by December 31, 1998, an
3.12 additional 75 megawatts of installed capacity so generated scheduled to be operational by
3.13 December 31, 2002.

3.14 (b) Of the 125 megawatts of biomass electricity installed capacity required under this
3.15 subdivision, no more than 55 megawatts of this capacity may be provided by a facility that
3.16 uses poultry litter as its primary fuel source and any such facility:

3.17 (1) need not use biomass that complies with the definition in subdivision 1;

3.18 (2) must enter into a contract with the public utility for such capacity, that has an average
3.19 purchase price per megawatt hour over the life of the contract that is equal to or less than
3.20 the average purchase price per megawatt hour over the life of the contract in contracts
3.21 approved by the Public Utilities Commission before April 1, 2000, to satisfy the mandate
3.22 of this section, and file that contract with the Public Utilities Commission prior to September
3.23 1, 2000; and

3.24 (3) must schedule such capacity to be operational by December 31, 2002.

3.25 (c) Of the total 125 megawatts of biomass electric energy installed capacity required
3.26 under this section, no more than 75 megawatts may be provided by a single project.

3.27 (d) Of the 75 megawatts of biomass electric energy installed capacity required under
3.28 paragraph (a), clause (2), no more than 33 megawatts of this capacity may be provided by
3.29 a St. Paul district heating and cooling system cogeneration facility utilizing waste wood as
3.30 a primary fuel source. The St. Paul district heating and cooling system cogeneration facility
3.31 need not use biomass that complies with the definition in subdivision 1.

4.1 (e) The public utility must accept and consider on an equal basis with other biomass
4.2 proposals:

4.3 (1) a proposal to satisfy the requirements of this section that includes a project that
4.4 exceeds the megawatt capacity requirements of either paragraph (a), clause (1) or (2), and
4.5 that proposes to sell the excess capacity to the public utility or to other purchasers; and

4.6 (2) a proposal for a new facility to satisfy more than ten but not more than 20 megawatts
4.7 of the electrical generation requirements by a small business-sponsored independent power
4.8 producer facility to be located within the northern quarter of the state, which means the area
4.9 located north of Constitutional Route No. 8 as described in section 161.114, subdivision 2,
4.10 and that utilizes biomass residue wood, sawdust, bark, chipped wood, or brush to generate
4.11 electricity. A facility described in this clause is not required to utilize biomass complying
4.12 with the definition in subdivision 1, but must be under construction by December 31, 2005.

4.13 (f) If a public utility files a contract with the commission for electric energy installed
4.14 capacity that uses poultry litter as its primary fuel source, the commission must do a
4.15 preliminary review of the contract to determine if it meets the purchase price criteria provided
4.16 in paragraph (b), clause (2). The commission shall perform its review and advise the parties
4.17 of its determination within 30 days of filing of such a contract by a public utility. A public
4.18 utility may submit by September 1, 2000, a revised contract to address the commission's
4.19 preliminary determination.

4.20 (g) The commission shall finally approve, modify, or disapprove no later than July 1,
4.21 2001, all contracts submitted by a public utility as of September 1, 2000, to meet the mandate
4.22 set forth in this subdivision.

4.23 (h) If a public utility subject to this section exercises an option to increase the generating
4.24 capacity of a project in a contract approved by the commission prior to April 25, 2000, to
4.25 satisfy the mandate in this subdivision, the public utility must notify the commission by
4.26 September 1, 2000, that it has exercised the option and include in the notice the amount of
4.27 additional megawatts to be generated under the option exercised. Any review by the
4.28 commission of the project after exercise of such an option shall be based on the same criteria
4.29 used to review the existing contract.

4.30 ~~(i) A facility specified in this subdivision qualifies for exemption from property taxation~~
4.31 ~~under section 272.02, subdivision 45.~~

4.32 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

5.1 Sec. 4. Minnesota Statutes 2016, section 272.02, subdivision 9, is amended to read:

5.2 Subd. 9. **Personal property; exceptions.** Except for the taxable personal property
5.3 enumerated below, all personal property and the property described in section 272.03,
5.4 subdivision 1, paragraphs (c) and (d), shall be exempt.

5.5 The following personal property shall be taxable:

5.6 (a) personal property which is part of ~~an electric generating, transmission, or distribution~~
5.7 ~~system~~ or a pipeline system transporting or distributing water, gas, crude oil, or petroleum
5.8 products or mains and pipes used in the distribution of steam or hot or chilled water for
5.9 heating or cooling buildings and structures;

5.10 (b) railroad docks and wharves which are part of the operating property of a railroad
5.11 company as defined in section 270.80;

5.12 (c) personal property defined in section 272.03, subdivision 2, clause (3);

5.13 (d) leasehold or other personal property interests which are taxed pursuant to section
5.14 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law
5.15 providing the property is taxable as if the lessee or user were the fee owner;

5.16 (e) manufactured homes and sectional structures, including storage sheds, decks, and
5.17 similar removable improvements constructed on the site of a manufactured home, sectional
5.18 structure, park trailer or travel trailer as provided in section 273.125, subdivision 8, paragraph
5.19 (f); and

5.20 (f) flight property as defined in section 270.071.

5.21 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

5.22 Sec. 5. Minnesota Statutes 2016, section 272.02, subdivision 10, is amended to read:

5.23 Subd. 10. **Personal property used for pollution control.** Personal property used
5.24 primarily for the abatement and control of air, water, or land pollution is exempt to the
5.25 extent that it is so used, and real property is exempt if it is used primarily for abatement and
5.26 control of air, water, or land pollution as part of an agricultural operation, as a part of a
5.27 centralized treatment and recovery facility operating under a permit issued by the Minnesota
5.28 Pollution Control Agency pursuant to chapters 115 and 116 and Minnesota Rules, parts
5.29 7001.0500 to 7001.0730, and 7045.0020 to 7045.1030, as a wastewater treatment facility
5.30 and for the treatment, recovery, and stabilization of metals, oils, chemicals, water, sludges,
5.31 or inorganic materials from hazardous industrial wastes, ~~or as part of an electric generation~~
5.32 ~~system~~. For purposes of this subdivision, personal property includes ponderous machinery

6.1 and equipment used in a business or production activity that at common law is considered
 6.2 real property. The real or personal property of an electric generation, transmission,
 6.3 distribution, and substation system is not eligible for an exemption under this section.

6.4 Any taxpayer requesting exemption of all or a portion of any real property or any
 6.5 equipment or device, or part thereof, operated primarily for the control or abatement of air,
 6.6 water, or land pollution shall file an application with the commissioner of revenue. ~~The~~
 6.7 ~~commissioner shall develop an electronic means to notify interested parties when electric~~
 6.8 ~~power generation facilities have filed an application.~~ The Minnesota Pollution Control
 6.9 Agency shall upon request of the commissioner furnish information and advice to the
 6.10 commissioner.

6.11 The information and advice furnished by the Minnesota Pollution Control Agency must
 6.12 include statements as to whether the equipment, device, or real property meets a standard,
 6.13 rule, criteria, guideline, policy, or order of the Minnesota Pollution Control Agency, and
 6.14 whether the equipment, device, or real property is installed or operated in accordance with
 6.15 it. On determining that property qualifies for exemption, the commissioner shall issue an
 6.16 order exempting the property from taxation. The commissioner shall develop an electronic
 6.17 means to notify interested parties when the commissioner has issued an order exempting
 6.18 property from taxation under this subdivision. The equipment, device, or real property shall
 6.19 continue to be exempt from taxation as long as the order issued by the commissioner remains
 6.20 in effect.

6.21 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

6.22 Sec. 6. Minnesota Statutes 2016, section 272.025, subdivision 1, is amended to read:

6.23 Subdivision 1. **Statement of exemption.** (a) Except in the case of property owned by
 6.24 the state of Minnesota or any political subdivision thereof, and property exempt from taxation
 6.25 under section 272.02, subdivisions 9, 10, 13, 15, 18, 20, and 22 to 25, and at the times
 6.26 provided in subdivision 3, a taxpayer claiming an exemption from taxation on property
 6.27 described in section 272.02, subdivisions 2 to ~~33~~ 32, must file a statement of exemption
 6.28 with the assessor of the assessment district in which the property is located.

6.29 (b) A taxpayer claiming an exemption from taxation on property described in section
 6.30 272.02, subdivision 10, must file a statement of exemption with the commissioner of revenue,
 6.31 on or before February 15 of each year for which the taxpayer claims an exemption.

7.1 (c) In case of sickness, absence or other disability or for good cause, the assessor or the
 7.2 commissioner may extend the time for filing the statement of exemption for a period not to
 7.3 exceed 60 days.

7.4 (d) The commissioner of revenue shall prescribe the form and contents of the statement
 7.5 of exemption.

7.6 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2017.

7.7 Sec. 7. ~~[273.129]~~ **ELECTRIC GENERATION MACHINERY, TRANSMISSION,**
 7.8 **DISTRIBUTION, AND SUBSTATION; VALUATION.**

7.9 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms having
 7.10 the meanings given.

7.11 (b) "Biomass generating system" means a device used to produce energy by the direct
 7.12 combustion of carbon-based organisms.

7.13 (c) "Coal generating system" means a device whose primary purpose is the production
 7.14 of electricity derived from the direct combustion of coal to produce steam.

7.15 (d) "Electric generation machinery" means all personal property of an electric generation
 7.16 system used for the purpose of generating electricity, excluding municipal utilities, solar
 7.17 energy generating systems, and wind energy conversion systems.

7.18 (e) "Electric transmission line" means an exterior or underground line that transmits
 7.19 high-voltage electricity with a capacity of at least 65 kilovolts or any electric line owned
 7.20 by a utility that only operates in wholesale sales. Electric transmission line does not mean
 7.21 any exterior or electric line owned or operated by a municipal utility.

7.22 (f) "Electric distribution line" means an exterior or underground line that transmits energy
 7.23 that operates at a voltage less than 65 kilovolts, excluding any line owned or operated by a
 7.24 municipal utility or a rural electric distribution cooperative.

7.25 (g) "Electric substation" means an assembly of equipment in an electric power system
 7.26 through which electric energy is passed for transmission or transformation.

7.27 (h) "Electric transmission line rate" equals voltage, in kilovolts, multiplied by

7.28 (i) "Generation capacity rate" means the rate per kilowatt of nameplate capacity as
 7.29 follows:

7.30 (1) \$0 for hydroelectric generating systems;

8.1 (2) \$5 for machinery used to generate electricity from biomass, natural gas, or nuclear
8.2 fuel generation systems; and

8.3 (3) \$10 for machinery used to generate electricity from a coal or oil generation system
8.4 or any other fossil fuel.

8.5 (j) "Generation rate" means the rate per kilowatt-hour as follows:

8.6 (1) \$0.05 for hydroelectric generating systems;

8.7 (2) \$0.0525 for machinery used to generate electricity from biomass, natural gas, or
8.8 nuclear fuel generation systems; and

8.9 (3) \$0.055 for machinery used to generate electricity from a coal or oil generation system
8.10 or any other fossil fuel.

8.11 (k) "Hydroelectric generating system" means a device whose primary purpose is the
8.12 production of electricity derived from flowing water.

8.13 (l) "Nameplate capacity" means the maximum rated output of a generator, prime mover,
8.14 or other electric power production equipment under specific conditions designated by the
8.15 manufacturer.

8.16 (m) "Natural gas generating system" means a device whose primary purpose is the
8.17 production of electricity derived from natural gas.

8.18 (n) "Nuclear fuel generating system" means a device whose primary purpose is the
8.19 production of electricity generated by the use of the thermal energy released from the fission
8.20 of nuclear fuel in a reactor.

8.21 (o) "Oil generating system" means a device whose primary purpose is the production of
8.22 electricity derived by direct combustion of oil to produce steam.

8.23 (p) "Primary fuel source" means the fuel source that is dominantly used by a facility in
8.24 the production of electricity.

8.25 (q) "Spent fuel" means fuel that has been irradiated in a nuclear reactor to the point
8.26 where it is no longer useful in sustaining a nuclear reaction.

8.27 (r) "Spent fuel tax base" means \$150,000,000 per facility plus \$100,000 per ton, or
8.28 fraction thereof, of spent fuel stored at a nuclear generating facility, or at any other site
8.29 elsewhere within the state. The value of spent fuel stored at a site other than at a nuclear
8.30 generating facility shall be apportioned to the jurisdiction where the spent fuel is stored.

9.1 Subd. 2. **Rates; adjustment.** The rates as provided in subdivision 1, paragraphs (h), (i),
9.2 and (j), and the factors in subdivision 3, paragraphs (d) and (e), shall be increased annually
9.3 by an amount equal to the percentage change, if any, in the gross domestic product for
9.4 nonresidential investment for the current year as compared to the previous year, as reported
9.5 on Table 1.1.1 by the United States Bureau of Economic Analysis. A rate change pursuant
9.6 to this section is effective for the following taxes payable year.

9.7 Subd. 3. **Electric generation tax base.** (a) The commissioner shall annually calculate
9.8 the electric generation tax base under this section. An electric generating system with a
9.9 capacity of one megawatt or less as determined under subdivision 4 is exempt from this
9.10 section. The commissioner shall calculate the electric generation tax base of the facility
9.11 using the applicable capacity and generation rates for each generator based on the electric
9.12 generation system's primary fuel source.

9.13 (b) The electric generation tax base for property described in subdivision 1, paragraph
9.14 (d), is equal to the sum of: (1) its nameplate capacity multiplied by its generation capacity
9.15 rate; (2) the average of its electric energy production as reported to the commissioner of
9.16 revenue for the immediately preceding five years, multiplied by its generation rate; and (3)
9.17 its spent fuel tax base. For an electric generator that has been operational for less than the
9.18 immediately preceding five years, the average of its electric energy production is the average
9.19 of its electric energy production for the time period since the facility commenced operation.

9.20 (c) The electric transmission line tax base for property described in subdivision 1,
9.21 paragraph (e), is equal to the number of miles of electric transmission lines located within
9.22 the taxing jurisdiction, multiplied by the electric transmission line rate.

9.23 (d) The electric substation tax base for property described in subdivision 1, paragraph
9.24 (g), is equal to the sum of the capacity of a substation, measured in megavolt-amperes,
9.25 multiplied by

9.26 (e) The electric distribution line tax base for property described in subdivision 1,
9.27 paragraph (f), is equal to the number of customers in the taxing jurisdiction that receives
9.28 an electric distribution, multiplied by

9.29 Subd. 4. **Electric generating systems; size.** The total capacity of an electric generating
9.30 system, pursuant to this section, shall be determined by combining all generators of each
9.31 fuel type within each facility, based on the information reported to the commissioner of
9.32 revenue as required under subdivision 5.

9.33 Subd. 5. **Generating systems; reports.** (a) An owner of an electric generating system,
9.34 transmission and distribution lines, or electric substations subject to taxation under this

10.1 section must file a report with the commissioner of revenue annually on or before January
10.2 15 detailing, if applicable: (1) the amount of electricity produced by each generator in the
10.3 previous calendar year as reported to the United States Energy Information Administration;
10.4 (2) the location, length, and capacity of all transmission and distribution lines; and (3) the
10.5 location and capacity of all electric substations, including individual transformers. The
10.6 commissioner shall prescribe the form of the report, and the report must contain the
10.7 information required by the commissioner to determine the tax base under this section. The
10.8 commissioner may, for good cause, extend the time for filing the report as required under
10.9 this section. The extension may not exceed 15 days.

10.10 (b) If an owner of an electric generating system fails to file the report by the due date,
10.11 the commissioner of revenue shall determine the tax base upon the sum of: (1) the nameplate
10.12 capacity of the system's generators multiplied by the generation capacity rate for the
10.13 generator's primary fuel source; (2) a production of 100 percent of annual capacity of the
10.14 facility multiplied by the generation rate for the primary fuel source; and (3) the greater of
10.15 the spent fuel tax base from the prior year multiplied by two, or the amount as reported by
10.16 the United States Energy Information Administration, multiplied by two.

10.17 (c) If an owner of an electric transmission or distribution line, or an electric substation,
10.18 fails to file the report by the due date, the commissioner of revenue shall determine the tax
10.19 based upon the prior year's tax base multiplied by two.

10.20 Subd. 6. **Notification to the counties.** The commissioner of revenue shall annually, on
10.21 or before March 31, notify the county auditor of the county where the electric generating,
10.22 transmission, distribution, and substation system is located of: (1) the electric generation
10.23 tax base; and (2) the electric generation tax base multiplied by two percent to be added to
10.24 the jurisdiction's net tax capacity base.

10.25 Subd. 7. **Omitted or undervalued property.** If an electric generation, transmission,
10.26 distribution, and substation system is omitted in the determination of the tax base and thereby
10.27 escapes taxation, or if the system is discovered to have been undervalued, or, if the capacity
10.28 or production has been underreported, the commissioner of revenue shall determine the tax
10.29 base for the year or years omitted. The commissioner of revenue shall, on or before March
10.30 31, notify the county auditor of the county where the electric generation transmission,
10.31 distribution, and substation system is located of the omitted or underreported tax base, and
10.32 the county auditor shall extend against the owner arrearage of taxes properly due. The
10.33 authority of the commissioner of revenue to determine the tax base under this section is
10.34 limited to the immediately preceding five years.

11.1 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

11.2 Sec. 8. Minnesota Statutes 2016, section 273.13, subdivision 24, is amended to read:

11.3 Subd. 24. **Class 3.** Commercial and industrial property and utility real and personal
11.4 property is class 3a.

11.5 (1) Except as otherwise provided, each parcel of commercial, industrial, or utility real
11.6 property has a classification rate of 1.5 percent of the first tier of market value, and 2.0
11.7 percent of the remaining market value. In the case of contiguous parcels of property owned
11.8 by the same person or entity, only the value equal to the first-tier value of the contiguous
11.9 parcels qualifies for the reduced classification rate, except that contiguous parcels owned
11.10 by the same person or entity shall be eligible for the first-tier value classification rate on
11.11 each separate business operated by the owner of the property, provided the business is
11.12 housed in a separate structure. For the purposes of this subdivision, the first tier means the
11.13 first \$150,000 of market value. Real property owned in fee by a utility for transmission line
11.14 right-of-way shall be classified at the classification rate for the higher tier.

11.15 For purposes of this subdivision, parcels are considered to be contiguous even if they
11.16 are separated from each other by a road, street, waterway, or other similar intervening type
11.17 of property. Connections between parcels that consist of power lines or pipelines do not
11.18 cause the parcels to be contiguous. Property owners who have contiguous parcels of property
11.19 that constitute separate businesses that may qualify for the first-tier classification rate shall
11.20 notify the assessor by July 1, for treatment beginning in the following taxes payable year.

11.21 (2) All personal property that is: ~~(i) part of an electric generation, transmission, or~~
11.22 ~~distribution system; or (ii) (i) part of a pipeline system transporting or distributing water,~~
11.23 ~~gas, crude oil, or petroleum products; and (iii) (ii) not described in clause (3), and all railroad~~
11.24 ~~operating property has a classification rate as provided under clause (1) for the first tier of~~
11.25 ~~market value and the remaining market value. In the case of multiple parcels in one county~~
11.26 ~~that are owned by one person or entity, only one first tier amount is eligible for the reduced~~
11.27 ~~rate.~~

11.28 (3) The entire market value of personal property that is: ~~(i) tools, implements, and~~
11.29 ~~machinery of an electric generation, transmission, or distribution system; (ii) (i) tools,~~
11.30 ~~implements, and machinery of a pipeline system transporting or distributing water, gas,~~
11.31 ~~crude oil, or petroleum products; or (iii) (ii) the mains and pipes used in the distribution of~~
11.32 ~~steam or hot or chilled water for heating or cooling buildings, has a classification rate as~~
11.33 ~~provided under clause (1) for the remaining market value in excess of the first tier.~~

12.1 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

12.2 Sec. 9. Minnesota Statutes 2016, section 273.1325, subdivision 1, is amended to read:

12.3 Subdivision 1. **Computation.** The Department of Revenue must annually conduct an
 12.4 assessment/sales ratio study of the taxable property in each county, city, town, and school
 12.5 district in accordance with the procedures in subdivisions 2 and 3. Based upon the results
 12.6 of this assessment/sales ratio study, the Department of Revenue must determine an equalized
 12.7 net tax capacity for the various classes of taxable property in each taxing district, plus the
 12.8 value established under section 273.129, the aggregate of which is designated as the adjusted
 12.9 net tax capacity. The adjusted net tax capacity must be reduced by the captured tax capacity
 12.10 of tax increment districts under section 469.177, subdivision 2, fiscal disparities contribution
 12.11 tax capacities under sections 276A.06 and 473F.08, and the tax capacity of transmission
 12.12 lines required to be subtracted from the local tax base under section 273.425; and increased
 12.13 by fiscal disparities distribution tax capacities under sections 276A.06 and 473F.08. The
 12.14 adjusted net tax capacities shall be determined using the net tax capacity percentages in
 12.15 effect for the assessment year following the assessment year of the study. The Department
 12.16 of Revenue must make whatever estimates are necessary to account for changes in the
 12.17 classification system. The Department of Revenue may incur the expense necessary to make
 12.18 the determinations. The commissioner of revenue may reimburse any county or governmental
 12.19 official for requested services performed in ascertaining the adjusted net tax capacity. On
 12.20 or before March 15 annually, the Department of Revenue shall file with the chair of the Tax
 12.21 Committee of the house of representatives and the chair of the Committee on Taxes and
 12.22 Tax laws of the senate a report of adjusted net tax capacities for school districts. On or
 12.23 before June 30 annually, the Department of Revenue shall file its final report on the adjusted
 12.24 net tax capacities for school districts established by the previous year's assessments and the
 12.25 current year's net tax capacity percentages with the commissioner of education and each
 12.26 county auditor for those school districts for which the auditor has the responsibility for
 12.27 determination of local tax rates. A copy of the report so filed shall be mailed to the clerk of
 12.28 each school district involved and to the county assessor or supervisor of assessments of the
 12.29 county or counties in which each school district is located.

12.30 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

12.31 Sec. 10. Minnesota Statutes 2016, section 273.37, subdivision 1, is amended to read:

12.32 Subdivision 1. **Listing and assessment where situated.** (a) Personal property of electric
 12.33 light and power companies, and other individuals and partnerships supplying electric light

13.1 and power, having a fixed situs outside of the corporate limits of cities shall be listed and
 13.2 assessed in the district where situated, except as otherwise provided.

13.3 (b) Notwithstanding any other law to the contrary, the nonoperating property, and
 13.4 operating real property that is part of an electric generation system, shall be listed and
 13.5 assessed by the local or county assessor.

13.6 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2018.

13.7 Sec. 11. [477A.23] ELECTRIC GENERATION, TRANSMISSION, DISTRIBUTION,
 13.8 AND SUBSTATION REPLACEMENT AID.

13.9 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
 13.10 the meanings given.

13.11 (b) "Electric distribution line" means an exterior or underground line that transmits
 13.12 energy that operates at a voltage less than 65 kilovolts, excluding any line owned or operated
 13.13 by a municipal utility, or a rural electric distribution cooperative.

13.14 (c) "Electric substation" means an assembly of equipment in an electric power system
 13.15 through which electric energy is passed for transmission, transformation, or distribution.

13.16 (d) "Electric transmission line" means an exterior or underground line that transmits
 13.17 high-voltage electricity with a capacity of at least 65 kilovolts or any electric line owned
 13.18 by a utility that only operates in wholesale sales. Electric transmission line does not mean
 13.19 any exterior or electric line owned or operated by a municipal utility.

13.20 (e) "Local unit" means a home rule charter or statutory city, county, or town.

13.21 Subd. 2. **Aid eligibility; payment.** (a) For aids payable in 2019 only, replacement aid
 13.22 under this section equals: (1) the net tax capacity of all personal property of all electric
 13.23 generation, transmission and distribution lines, and substation systems as determined for
 13.24 assessment year 2018 multiplied by the payable 2019 local tax rate; minus (2) the net tax
 13.25 capacity in 2017 of all electric generation, transmission or distribution lines, and substation
 13.26 systems as determined under section 273.129, multiplied by the payable 2018 local tax rate.
 13.27 The aid payment may not be less than zero.

13.28 (b) For aids payable in 2020 and thereafter, if the electric generation, transmission,
 13.29 distribution, and substation tax base is: (1) reduced by more than ten percent as compared
 13.30 to the previous year; and (2) the reduction is more than 0.5 percent of a local unit's total tax
 13.31 base, aid shall equal the difference between the prior assessment year multiplied by the

14.1 current year local tax rate and the assessment two years prior multiplied by the prior year
14.2 local tax rate.

14.3 (c) If paragraph (b) does not apply, aid shall be equal to (1) 95 percent of the prior year's
14.4 aid; minus (2) the difference between the current year's tax base from the prior year's tax
14.5 base. Aid shall cease if aid is certified to be less than 0.05 percent of the current assessment
14.6 year multiplied by the local tax rate.

14.7 (d) The commissioner shall compute the amount of replacement aid payable to each
14.8 local unit under this section. On or before August 1 of each year, the commissioner shall
14.9 certify the amount of replacement aid computed for aids payable in the following year for
14.10 each recipient local unit. The commissioner shall pay replacement aid to local units annually
14.11 at the time provided for the second installment of local government aid under section
14.12 477A.015.

14.13 (e) The commissioner may require counties and owners of electric generation facilities,
14.14 transmission and distribution lines, and substations to provide any documentation necessary
14.15 to administer this section.

14.16 Subd. 3. **Appropriation.** An amount sufficient to pay transition aid under this section
14.17 is annually appropriated to the commissioner of revenue from the general fund.

14.18 **EFFECTIVE DATE.** This section is effective beginning with aids payable in 2019.

14.19 Sec. 12. **REPEALER.**

14.20 Minnesota Statutes 2016, sections 272.02, subdivisions 24, 29, 33, 44, 45, 47, 52, 54,
14.21 55, 56, 68, 69, 70, 71, 84, 89, 92, 93, 96, and 99; and 272.0211, are repealed.

14.22 **EFFECTIVE DATE.** This section is effective beginning with assessment year 2017.

272.02 EXEMPT PROPERTY.

Subd. 24. **Solar energy generating systems.** Personal property consisting of solar energy generating systems, as defined in section 272.0295, is exempt. If the real property upon which a solar energy generating system is located is used primarily for solar energy production subject to the production tax under section 272.0295, the real property shall be classified as class 3a. If the real property upon which a solar energy generating system is located is not used primarily for solar energy production subject to the production tax under section 272.0295, the real property shall be classified without regard to the system.

Subd. 29. **Cogeneration systems; certain property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a facility containing a cogeneration system as described in section 216B.166, subdivision 2, paragraph (a), is exempt if the cogeneration system has met the following criteria: (i) the system utilizes natural gas as a primary fuel and the cogenerated steam initially replaces steam generated from existing thermal boilers utilizing coal; (ii) the facility developer is selected as a result of a procurement process ordered by the Public Utilities Commission; and (iii) construction of the facility is commenced after July 1, 1994, and before July 1, 1997.

Subd. 33. **Electric generation facility personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 250 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (i) not be owned by a public utility as defined in section 216B.02, subdivision 4;
- (ii) utilize natural gas as a primary fuel;
- (iii) be located within 20 miles of the intersection of an existing 42-inch (outside diameter) natural gas pipeline and a 345-kilovolt high-voltage electric transmission line; and
- (iv) be designed to provide peaking, emergency backup, or contingency services, and have received a certificate of need pursuant to section 216B.243 demonstrating demand for its capacity. Construction of the facility must be commenced after July 1, 1999, and before July 1, 2003. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 44. **Electric generation facility personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 250 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be located within 20 miles of parallel existing 16-inch and 12-inch (outside diameter) natural gas pipelines and a 345-kilovolt high-voltage electric transmission line; and
- (3) be designed to provide peaking, emergency backup, or contingency services, and have received a certificate of need under section 216B.243 demonstrating demand for its capacity.

Construction of the facility must be commenced after January 1, 2000, and before January 1, 2004. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 45. **Biomass electrical generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) be designed to utilize biomass as established in section 216B.2424 as a primary fuel source; and
- (2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the Public Utilities Commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2000, and before December 31, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

Subd. 47. **Poultry litter biomass generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

APPENDIX

Repealed Minnesota Statutes: 17-3337

(1) be designed to utilize poultry litter as a primary fuel source; and
(2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the Public Utilities Commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2003, and before December 31, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 52. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility of more than 40 megawatts and less than 50 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) utilize natural gas as a primary fuel;
(2) be located within two miles of parallel existing 36-inch natural gas pipelines and an existing 115-kilovolt high-voltage electric transmission line;
(3) be designed to provide peaking, emergency backup, or contingency services; and
(4) satisfy a resource deficiency identified in an approved integrated resource plan filed under section 216B.2422.

Construction of the facility must be commenced after January 1, 2001, and before January 1, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 54. **Small biomass electric generation facility; personal property.** (a) Subject to paragraph (b), notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction the facility must:

(1) have a generation capacity of less than 25 megawatts;
(2) provide process heating needs in addition to electrical generation; and
(3) utilize agricultural by-products from the malting process and other biomass fuels as its primary fuel source.

Construction of the facility must be commenced after January 1, 2002, and before January 1, 2008. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

(b) The exemption under this subdivision is contingent on approval by the governing bodies of the municipality and county in which the electric generation facility is located.

Subd. 55. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electric generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must (i) be eligible to be designated as an innovative energy project under section 216B.1694, except that, notwithstanding anything to the contrary in section 216B.1694, a project may include gas-fired generating facilities that are adaptable for subsequent incorporation into a facility that uses coal as a primary fuel, provided that this exception applies only to the eligibility for exemption under this section, (ii) be within a tax relief area as defined in section 273.134, (iii) have access to existing railroad infrastructure within less than three miles, (iv) have received by resolution approval from the governing body of the county and township or city in which the proposed facility is to be located for the exemption of personal property under this subdivision, and (v) be designed to host at least 500 megawatts of electrical generation.

Construction of the first 100 megawatts of the facility must be commenced after January 1, 2006, and before January 1, 2012. Construction of up to an additional 750 megawatts of generation must be commenced before January 1, 2015. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. To qualify for an exemption under this subdivision, the owner of the electric generation facility must have an agreement with the host county, township or city, and school district, for payment in lieu of personal property taxes to the host county, township or city, and school district.

Subd. 56. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a combined-cycle combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize natural gas as a primary fuel;
(2) not be owned by a public utility as defined in section 216B.02, subdivision 4;

APPENDIX

Repealed Minnesota Statutes: 17-3337

(3) be located within five miles of an existing natural gas pipeline and within four miles of an existing electrical transmission substation;

(4) be located outside the metropolitan area as defined under section 473.121, subdivision 2; and

(5) be designed to provide energy and ancillary services and have received a certificate of need under section 216B.243.

(b) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2007, except that property eligible for this exemption includes any expansion of the facility that also meets the requirements of paragraph (a), clauses (1) to (5), without regard to the date that construction of the expansion commences. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 68. Electric generation facility; personal property. (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 290 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize natural gas as a primary fuel;

(2) not be owned by a public utility as defined in section 216B.02, subdivision 4;

(3) be located within 15 miles of an existing natural gas pipeline and within five miles of an existing electrical transmission substation;

(4) be located outside the metropolitan area as defined under section 473.121, subdivision 2;

(5) be designed to provide peaking capacity energy and ancillary services and have satisfied all of the requirements under section 216B.243; and

(6) have received, by resolution, the approval from the governing body of the county, city, and school district in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after January 1, 2005, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 69. Electric generation facility personal property. (a) Notwithstanding subdivision 9, clause (a), and section 453.54, subdivision 20, attached machinery and other personal property which is part of an electric generation facility that exceeds 150 megawatts of installed capacity and meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize natural gas as a primary fuel;

(2) be owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;

(3) have received the certificate of need under section 216B.243;

(4) be located outside the metropolitan area as defined under section 473.121, subdivision 2; and

(5) be designed to be a combined-cycle facility, although initially the facility will be operated as a simple-cycle combustion turbine.

(b) To qualify under this subdivision, an agreement must be negotiated between the municipal power agency and the host city, for a payment in lieu of property taxes to the host city.

(c) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2006. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 70. Electric generation facility; personal property. Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an existing simple-cycle, combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of the construction, the facility must:

(1) be designed to utilize natural gas as a primary fuel;

(2) be owned by a public utility as defined in section 216B.02, subdivision 4, and be located at or interconnected with an existing generating plant of the utility;

(3) be designed to provide peaking, emergency backup, or contingency services;

(4) satisfy a resource need identified in an approved integrated resource plan filed under section 216B.2422; and

APPENDIX

Repealed Minnesota Statutes: 17-3337

(5) have received, by resolution, the approval from the governing body of the county and the city for the exemption of personal property under this subdivision.

Construction of the facility expansion must be commenced after January 1, 2004, and before January 1, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 71. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be owned by an electric generation and transmission cooperative;
- (3) be located within five miles of parallel existing 12-inch and 16-inch natural gas pipelines and a 69-kilovolt high-voltage electric transmission line;
- (4) be designed to provide peaking, emergency backup, or contingency services;
- (5) have received a certificate of need under section 216B.243 demonstrating demand for its capacity; and

(6) have received by resolution the approval from the governing body of the county and township in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after July 1, 2005, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 84. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a 10.3 megawatt run-of-the-river hydroelectric generation facility and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize between 12 and 16 turbine generators at a dam site existing on March 31, 1994;
- (2) be located on land within 3,000 feet of a 13.8 kilovolt distribution substation; and
- (3) be eligible to receive a renewable energy production incentive payment under section 216C.41.

Construction of the facility must be commenced after April 30, 2006, and before January 1, 2011. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 89. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, paragraph (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be owned by an electric generation and transmission cooperative;
- (3) be located within one mile of an existing 16-inch natural gas pipeline and a 69-kilovolt and a 230-kilovolt high-voltage electric transmission line;
- (4) be designed to provide peaking, emergency backup, or contingency services;
- (5) have received a certificate of need under section 216B.243 demonstrating demand for its capacity; and

(6) have received by resolution the approval from the governing bodies of the county and the city in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after January 1, 2008, and before January 1, 2012. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 92. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property that is part of an electric generation facility that exceeds 150 megawatts of installed capacity, does not exceed 780 megawatts of summer capacity, and meets the requirements of this subdivision is exempt. At the start of construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) be owned by an entity other than a public utility as defined in section 216B.02, subdivision 4;

APPENDIX

Repealed Minnesota Statutes: 17-3337

- (3) be located within five miles of two or more interstate natural gas pipelines;
- (4) be located within one mile of an existing electrical transmission substation with operating alternating current voltages of 115 kV, 345 kV, and 500 kV;
- (5) be designed to provide electrical capacity, energy, and ancillary services;
- (6) have satisfied all of the requirements under section 216B.243;
- (7) have executed an interconnection agreement with the Midwest Independent System Operator that does not require the acquisition of more than one mile of new electric transmission right-of-way within the county where the facility is located, and does not provide for any other new routes or corridors for future electric transmission lines in the county where the facility is located;
- (8) be located in a county with an essential services and transmission services ordinance;
- (9) have signed a development agreement with the county board in the county in which the facility is located. The development agreement must be adopted by a two-thirds vote of the county board, and must contain provisions ensuring:
 - (i) the facility is designed to use effluent from a wastewater treatment facility as its preferred water source if it includes any combined-cycle units, and will not seek an exemption from legislative approval under section 103G.265, subdivision 3, paragraph (b); and
 - (ii) all processed wastewater discharge will be colocated with the outfall of a wastewater treatment facility;
- (10) have signed a development agreement with the township board in the township in which the facility is located containing provisions ensuring that noise and visual impacts of the facility are mitigated. The development agreement must be adopted by a two-thirds vote of the township board; and
- (11) have an agreement with the host county, township, and school district for payment in lieu of personal property taxes to the host county, township, and school district for a total amount not to exceed \$600,000 per year for the operating life of the facility. Any amount distributed to the school district is not subject to the deductions under section 126C.21.

(b) Construction of the facility must begin after March 1, 2010, and before March 1, 2014. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the facility.

Subd. 93. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property that is part of a simple-cycle electric generation facility of more than 40 megawatts and less than 125 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be located within two miles of parallel existing 36-inch natural gas pipelines and an existing 115-kilovolt high-voltage electric transmission line;
- (3) be designed to provide peaking, emergency backup, or contingency services;
- (4) satisfy a resource deficiency identified in an approved integrated resource plan filed under section 216B.2422; and
- (5) have an agreement with the host county, township, and school district for payment in lieu of personal property taxes to the host county, township, and school district for the operating life of the facility. Any amount distributed to the school district is not subject to the deductions under section 126C.21.

Construction of the facility must be commenced after January 1, 2015, and before January 1, 2019. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 96. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), and section 453.54, subdivision 20, attached machinery and other personal property that is part of a multiple reciprocating engine electric generation facility that adds more than 20 and less than 30 megawatts of installed capacity at a site where there is presently more than ten megawatts and fewer than 15 megawatts of installed capacity and that meets the requirements of this subdivision is exempt from taxation and from payments in lieu of taxation. At the time of construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) be owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;
- (3) be located within one mile of an existing natural gas pipeline;
- (4) be designed to have black start capability and to furnish emergency backup power service to the city in which it is located;
- (5) satisfy a resource deficiency identified in an approved integrated resource plan filed under section 216B.2422; and

APPENDIX

Repealed Minnesota Statutes: 17-3337

(6) have received, by resolution, the approval of the governing bodies of the city and county in which it is located for the exemption of personal property provided by this subdivision.

(b) Construction of the facility must be commenced after December 31, 2011, and before January 1, 2015. Property eligible for this exemption does not include (i) electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility; or (ii) property located on the site on July 20, 2011.

Subd. 99. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), and section 453.54, subdivision 20, attached machinery and other personal property which is part of an electric generation facility that exceeds five megawatts of installed capacity and meets the requirements of this subdivision is exempt. At the time of construction, the facility must be:

(1) designed to utilize natural gas as a primary fuel;

(2) owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;

(3) designed to utilize reciprocating engines paired with generators to produce electrical power;

(4) located within the service territory of a municipal power agency's electrical municipal utility that serves load exclusively in a metropolitan county as defined in section 473.121, subdivision 4; and

(5) designed to connect directly with a municipality's substation.

(b) Construction of the facility must be commenced after June 1, 2013, and before June 1, 2017. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

272.0211 SLIDING SCALE MARKET VALUE EXCLUSION FOR ELECTRIC POWER GENERATION EFFICIENCY.

Subdivision 1. **Efficiency determination and certification.** An owner or operator of a new or existing electric power generation facility, excluding wind energy conversion systems, may apply to the commissioner of revenue for a market value exclusion on the property as provided for in this section. This exclusion shall apply only to the market value of the equipment of the facility, and shall not apply to the structures and the land upon which the facility is located. The commissioner of revenue shall prescribe the forms and procedures for this application. Upon receiving the application, the commissioner of revenue shall: (1) request the commissioner of commerce to make a determination of the efficiency of the applicant's electric power generation facility; and (2) shall develop an electronic means to notify interested parties when electric power generation facilities have filed an application. The commissioner of commerce shall calculate efficiency as the ratio of useful energy outputs to energy inputs, expressed as a percentage, based on the performance of the facility's equipment during normal full load operation. The commissioner must include in this formula the energy used in any on-site preparation of materials necessary to convert the materials into the fuel used to generate electricity, such as a process to gasify petroleum coke. The commissioner shall use the Higher Heating Value (HHV) for all substances in the commissioner's efficiency calculations, except for wood for fuel in a biomass-eligible project under section 216B.2424; for these instances, the commissioner shall adjust the heating value to allow for energy consumed for evaporation of the moisture in the wood. The applicant shall provide the commissioner of commerce with whatever information the commissioner deems necessary to make the determination. Within 30 days of the receipt of the necessary information, the commissioner of commerce shall certify the findings of the efficiency determination to the commissioner of revenue and to the applicant. The commissioner of commerce shall determine the efficiency of the facility and certify the findings of that determination to the commissioner of revenue every two years thereafter from the date of the original certification.

Subd. 2. **Sliding scale exclusion.** Based upon the efficiency determination provided by the commissioner of commerce as described in subdivision 1, the commissioner of revenue shall subtract eight percent of the taxable market value of the qualifying property for each percentage point that the efficiency of the specific facility, as determined by the commissioner of commerce, is above 40 percent. The reduction in taxable market value shall be reflected in the taxable market value of the facility beginning with the assessment year immediately following the determination. The commissioner shall develop an electronic means to notify interested parties of the qualifying facilities and their respective exclusion percentages after the efficiency determination is made by the Department of Commerce. For a facility that is assessed by the county in which the facility is

APPENDIX

Repealed Minnesota Statutes: 17-3337

located, the commissioner of revenue shall certify to the assessor of that county the percentage of the taxable market value of the facility to be excluded.

Subd. 3. **Revocation.** (a) The commissioner of revenue shall revoke the market value reduction under this section, if:

(1) the applicant exercises its right under federal law to require an electric utility to purchase power generated by the facility; and

(2) the electric utility notifies the commissioner that the applicant has exercised its right to require purchase of power.

The revocation is effective beginning the first assessment year after notification of the commissioner.

(b) For purposes of this subdivision, the following terms mean:

(1) "Federal law" is the federal Public Utility Regulatory Policies Act, United States Code, title 16, section 824a-3, and regulations promulgated under that section, including Code of Federal Regulations, title 18, sections 929.303 and 929.304.

(2) "Electric utility" means an electric utility as defined in federal law described in clause (1).

Subd. 4. **Eligibility.** An owner or operator of a new or existing electric power generation facility who offers electric power generated by the facility for sale is eligible for an exclusion under this section only if:

(1) the owner or operator has received a certificate of need under section 216B.243, if required under that section;

(2) the public utilities commission finds that an agreement exists or a good faith offer has been made to sell the majority of the net power generated by the facility to an electric utility which has a demonstrated need for the power. A right of first refusal satisfies the good faith offer requirement. The commission shall have 90 days from the date the commission receives notice of the application under subdivision 1 to make this determination;

(3) the electric utility has agreed in advance not to offer the electric power for resale to a retail customer located outside of the utility's assigned service area, or, if the utility is a generation and transmission cooperative electric association, the assigned service area of its members, unless otherwise permitted by law; and

(4) for any facility that was not certified as eligible for an exclusion under subdivision 2 for property taxes payable in 2015, the facility must be converted from coal to an alternative fuel and must have a nameplate capacity prior to conversion of less than 75 megawatts.

For the purposes of this subdivision, "electric utility" means an entity whose primary business function is to operate, maintain, or control equipment or facilities for providing electric service at retail or wholesale, and includes distribution cooperative electric associations, generation and transmission cooperative electric associations, municipal utilities, and public utilities as defined in section 216B.02, subdivision 4.