SALES AND USE TAX
Biomass Electrical Generating Facility

February 28, 2001

	Yes	No
Separate Official Fiscal Note Requested		X
Fiscal Impact		
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of S.F. 1100 (Johnson, Dean) / H.F. 1201 (Westrom)

	Revenue Gain or (Loss)			
	F.Y. 2002	**F.Y. 2003**	**F.Y. 2004**	**FY2005**
		(000's)		
General Fund	($425)	($425)	($0)	($0)

Effective for sales made after June 30, 2001, and before January 1, 2003.

EXPLANATION OF THE BILL

Current Law: Local units of government (except school districts) are generally subject to the sales and use tax. Sales of building materials and supplies and equipment incorporated into a construction project by construction contractors are normally considered taxable retail sales.

Capital equipment essential to the integrated production process is exempt from the sales tax when used primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold at retail. The exemption applies to capital equipment used for the commercial production of electricity and steam.

Proposed Law: Purchases and sales of materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a facility using biomass to generate electricity would be exempt provided that: 1) the facility uses poultry litter biomass as the primary fuel source and 2) generates power in accordance with an existing biomass mandate. It is assumed that the term “equipment” as used in this bill language includes items that are incorporated into the structure and not movable goods such as furniture or computers. Some of the equipment of the proposed facility would be exempt under current law as qualifying capital equipment.

REVENUE ANALYSIS DETAIL

- It is assumed that one project in the city of Benson will be the only facility to qualify for the exemption prior to the sunset date of January 1, 2003.
- Xcel Energy, Inc. is contracting with Fibrowatt, LLC to purchase electricity produced by burning poultry litter. The local affiliate of Fibrowatt is Fibrominn and the local project requires approval from the Public Utilities Commission. The electricity plant would be located in the city of Benson.
- The estimate assumes that the project meets the requirements of the bioimass mandate in M.S.216B.2424 and that it will be approved by the Public Utilities Commission.
- The estimate is based on information provided by a Fibrominn representative and based on a study of state tax implications completed by Deloitte and Touche for the company. Contacts with city of Benson officials provided additional information.
- The total cost of the project as estimated by Fibrowatt is $139 million. The study by Deloitte and Touche indicated that $54 million would be spent for equipment that is exempt because it qualifies as capital equipment. Significant other nontaxable project costs include development and financial costs and interest and debt service expenses.
- It is estimated, in the study, that there will be $13 million of taxable materials and supplies.
- It is assumed that the tax consequence would be distributed evenly between the two fiscal years during which the construction project is scheduled.

Number of Taxpayers: This proposal is expected to apply to one project in the city of Benson.

ADMINISTRATIVE/OPERATIONAL IMPACT:

There will be no significant administrative or operational costs or savings to DOR in administration of this bill.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/polic.html#analyses

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