

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 82

(SENATE AUTHORS: ROBLING and Ortman)

DATE	D-PG	OFFICIAL STATUS
01/20/2011	69	Introduction and first reading Referred to Taxes
01/27/2011	100a	Comm report: To pass as amended and re-refer to Finance

A bill for an act
relating to state government finance; making changes to tax aids and credits
and reducing payments; amending Minnesota Statutes 2010, sections 270A.03,
subdivision 7; 273.1384, subdivision 6; 289A.50, subdivision 1; 290.01,
subdivision 6; 290A.03, subdivisions 11, 13; 290C.07; 477A.013, subdivision 9;
477A.03; proposing coding for new law in Minnesota Statutes, chapter 477A;
repealing Minnesota Statutes 2010, sections 10A.322, subdivision 4; 13.4967,
subdivision 2; 290.06, subdivision 23.

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

Section 1. Minnesota Statutes 2010, section 270A.03, subdivision 7, is amended to
read:

Subd. 7. **Refund.** "Refund" means an individual income tax refund ~~or political~~
~~contribution refund~~, pursuant to chapter 290, or a property tax credit or refund, pursuant to
chapter 290A, or a sustainable forest tax payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08,
subdivision 8, and amounts granted to persons by the legislature on the recommendation
of the joint senate-house of representatives Subcommittee on Claims shall be treated
as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A,
the refund shall be considered as belonging to each spouse in the proportion of the total
refund that equals each spouse's proportion of the total income determined under section
290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the
refund shall be considered as belonging to each spouse in the proportion of the total
refund that equals each spouse's proportion of the total taxable income determined under
section 290.01, subdivision 29. The commissioner shall remit the entire refund to the
claimant agency, which shall, upon the request of the spouse who does not owe the debt,

determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

EFFECTIVE DATE. This section is effective for refund claims based on contributions made after June 30, 2011.

Sec. 2. Minnesota Statutes 2010, section 273.1384, subdivision 6, is amended to read:

Subd. 6. **Credit reduction.** In 2011 and each year thereafter, the market value credit reimbursement amount for each taxing jurisdiction determined under this section is reduced by the dollar amount of the reduction in market value credit reimbursements for that taxing jurisdiction in 2010 due to the reductions under ~~section~~ sections 477A.0133 and 477A.0134. No taxing jurisdiction's market value credit reimbursements are reduced to less than zero under this subdivision. The commissioner of revenue shall pay the annual market value credit reimbursement amounts, after reduction under this subdivision, to the affected taxing jurisdictions as provided in this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2010, section 289A.50, subdivision 1, is amended to read:

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds \$1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than \$1, the

commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. ~~The refund allowed by section 290.06, subdivision 23, is also considered an overpayment.~~ The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by \$1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than \$1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

EFFECTIVE DATE. This section is effective for refund claims based on contributions made after June 30, 2011.

Sec. 4. Minnesota Statutes 2010, section 290.01, subdivision 6, is amended to read:

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. ~~For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.~~

EFFECTIVE DATE. This section is effective for refund claims based on contributions made after June 30, 2011.

Sec. 5. Minnesota Statutes 2010, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means ~~19~~ 15 percent of the gross rent actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of the claimant's Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant.

EFFECTIVE DATE. This section is effective for claims based on rent paid in 2010 and following years.

Sec. 6. Minnesota Statutes 2010, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **Property taxes payable.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead after deductions made under sections 273.135, 273.1384, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year, and after any refund claimed and allowable under section 290A.04, subdivision 2h, that is first payable in the year that the property tax is payable. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 273.125, subdivision 8, and for homesteads which are park trailers taxed as manufactured homes under section 168.012, subdivision 9, "property taxes payable" shall also include ~~19~~ 15 percent of the gross rent paid in the preceding year for the site on which the homestead is located. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.124, on or before December 15 of the assessment year to which the "property taxes payable" relate; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made on or before December 15 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

EFFECTIVE DATE. This section is effective for claims based on rent paid in 2010 and following years.

Sec. 7. Minnesota Statutes 2010, section 290C.07, is amended to read:

290C.07 CALCULATION OF INCENTIVE PAYMENT.

(a) An approved claimant under the sustainable forest incentive program is eligible to receive an annual payment. Subject to the limitation contained in paragraph (b), the payment shall equal the greater of:

(1) the difference between the property tax that would be paid on the land using the previous year's statewide average total township tax rate and a class rate of one percent, if the land were valued at (i) the average statewide managed forest land market value per acre calculated under section 290C.06, and (ii) the average statewide managed forest land current use value per acre calculated under section 290C.02, subdivision 5; or

(2) two-thirds of the property tax amount determined by using the previous year's statewide average total township tax rate, the estimated market value per acre as calculated in section 290C.06, and a class rate of one percent, provided that the payment shall be no less than \$7 per acre for each acre enrolled in the sustainable forest incentive program.

(b) The annual payment under this section per each Social Security number or state or federal business tax identification number must not exceed \$100,000.

EFFECTIVE DATE. This section is effective for payments in calendar year 2011 and thereafter.

Sec. 8. Minnesota Statutes 2010, section 477A.013, subdivision 9, is amended to read:

Subd. 9. **City aid distribution.** (a) In calendar year 2009 and thereafter, each city shall receive an aid distribution equal to the sum of (1) the city formula aid under subdivision 8, and (2) its city aid base.

(b) For aids payable in ~~2011~~ 2012 only, the total aid in the previous year for any city shall mean the amount of aid it was certified to receive for aids payable in ~~2010~~ 2011 under this section minus the amount of its aid reduction under section ~~477A.0134~~ 477A.0135. For aids payable in ~~2012~~ 2013 and thereafter, the total aid in the previous year for any city means the amount of aid it was certified to receive under this section in the previous payable year.

(c) For aids payable in 2010 and thereafter, the total aid for any city shall not exceed the sum of (1) ten percent of the city's net levy for the year prior to the aid distribution plus (2) its total aid in the previous year. For aids payable in 2009 and thereafter, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of \$10 multiplied by its population, or ten percent of its net levy in the year prior to the aid distribution.

(d) For aids payable in 2010 and thereafter, the total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of \$10 multiplied by its population, or five percent of its 2003 certified aid amount. For aids payable in 2009 only, the total aid for a city with a population less than 2,500 must not be less than what it received under this section in the previous year unless its total aid in calendar year 2008 was aid under section 477A.011, subdivision 36, paragraph (s), in which case its minimum aid is zero.

(e) A city's aid loss under this section may not exceed \$300,000 in any year in which the total city aid appropriation under section 477A.03, subdivision 2a, is equal or greater than the appropriation under that subdivision in the previous year, unless the city has an adjustment in its city net tax capacity under the process described in section 469.174, subdivision 28.

(f) If a city's net tax capacity used in calculating aid under this section has decreased in any year by more than 25 percent from its net tax capacity in the previous year due to property becoming tax-exempt Indian land, the city's maximum allowed aid increase under paragraph (c) shall be increased by an amount equal to (1) the city's tax rate in the year of the aid calculation, multiplied by (2) the amount of its net tax capacity decrease resulting from the property becoming tax exempt.

EFFECTIVE DATE. This section is effective for aids payable in calendar year 2012 and thereafter.

Sec. 9. [477A.0135] 2011 REDUCTIONS; COUNTIES AND CITIES.

The commissioner of revenue must compute and apply reductions to each county's aid under section 477A.0124 and each city's aid under section 477A.013, subdivision 9, for 2011 under this section. The reduction is equal to 47.8515 percent of each county's total county program aid reductions and 91.53216 percent of each city's local government aid reductions for aids payable in 2010 under sections 477A.0133 and 477A.0134. The reduction shall be limited to (1) the amount a county is certified to receive in aid in 2011 under section 477A.0124 and (2) the amount a city is certified to receive in aid in 2011 under section 477A.013, subdivision 9.

EFFECTIVE DATE. This section is effective for aids payable in calendar year 2011.

Sec. 10. Minnesota Statutes 2010, section 477A.03, is amended to read:

477A.03 APPROPRIATION.

Subd. 2. **Annual appropriation.** A sum sufficient to discharge the duties imposed by sections 477A.011 to 477A.014 is annually appropriated from the general fund to the commissioner of revenue.

Subd. 2a. **Cities.** For aids payable in ~~2011~~ 2012 and thereafter, the total aid paid under section 477A.013, subdivision 9, is ~~\$527,100,646~~ \$426,438,012.

Subd. 2b. **Counties.** (a) For aids payable in ~~2011~~ 2012 and thereafter, the total aid payable under section 477A.0124, subdivision 3, is ~~\$96,395,000~~ \$80,795,000. Each calendar year, \$500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of management and budget for payments made under section 611.27. For calendar year 2004, the amount shall be in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years, the amount shall be deducted from the appropriation under this paragraph. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year.

(b) For aids payable in ~~2011~~ 2012 and thereafter, the total aid under section 477A.0124, subdivision 4, is ~~\$101,309,575~~ \$84,909,575. The commissioner of management and budget shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed \$207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed \$7,000 in fiscal year 2004 and thereafter. The commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph. The amounts deducted are appropriated to the commissioner of management and budget and the commissioner of education for the preparation of local impact notes.

EFFECTIVE DATE. This section is effective for aids payable in calendar year 2012 and thereafter.

Sec. 11. ADMINISTRATION OF PROPERTY TAX REFUND CLAIMS; 2011.

In administering sections 5 and 6 for claims for refunds submitted using 19 percent of gross rent as rent constituting property taxes under prior law, the commissioner shall recalculate and pay the refund amounts using 15 percent of gross rent. The commissioner

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8.1 shall notify the claimant that the recalculation was mandated by action of the 2011
8.2 Legislature.

8.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.4 Sec. 12. **REPEALER.**

8.5 (a) Minnesota Statutes 2010, sections 10A.322, subdivision 4; and 13.4967,
8.6 subdivision 2, are repealed.

8.7 (b) Minnesota Statutes 2010, section 290.06, subdivision 23, is repealed.

8.8 **EFFECTIVE DATE.** Paragraph (a) is effective the day following final enactment.
8.9 Paragraph (b) is effective for refund claims based on contributions made after June 30,
8.10 2011.