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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1909

02/25/2014 Authored by Drazkowski
The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

1.1 relating to taxation; repealing the gift tax; repealing certain business-to-business
1.2 taxes; rescinding the increase in the wheelage tax; reinstating valuation
1.3 reductions for conservation easements; rescinding authority for school boards to
1.4 authorize referendum levies; repealing the student achievement levy; reverting
1.5 to prior animal waste technician fee and licensing requirements; amending
1.6 Minnesota Statutes 2012, section 297A.68, by adding a subdivision; Minnesota
1.7 Statutes 2013 Supplement, sections 18C.430, subdivisions 1, 3, 4, 5, 7; 18C.433,
1.8 subdivision 1; 126C.17, subdivisions 5, 6, 7; 163.051, subdivisions 1, 2, 2a,
1.9 3, by adding a subdivision; 270B.01, subdivision 8; 270B.03, subdivision 1;
1.10 273.117; 291.005, subdivision 1; 291.03, subdivision 1; 297A.61, subdivision
1.11 3; 297A.993, subdivision 1; repealing Minnesota Statutes 2013 Supplement,
1.12 sections 126C.13, subdivisions 3a, 3b, 3c; 126C.17, subdivision 9a; 292.16;
1.13 292.17; 292.18; 292.19; 292.20; 292.21.

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

1.16 Section 1. Minnesota Statutes 2013 Supplement, section 18C.430, subdivision 1, is
1.17 amended to read:

1.18 Subdivision 1. **Requirement.** (a) Except as provided in paragraph (c), a person may
1.19 not manage or apply animal wastes to the land for hire:

1.20 ~~(1) without a valid commercial animal waste technician applicator license;~~

1.21 ~~(2) without a valid commercial animal waste technician site manager license; or~~

1.22 ~~(3) as a sole proprietorship, company, partnership, or corporation unless a~~
1.23 ~~commercial animal waste technician company license is held and a commercial animal~~
1.24 ~~waste technical site manager is employed by the entity.~~

1.25 (b) A person managing or applying animal wastes for hire must have a valid
1.26 license identification card when managing or applying animal wastes for hire and must
1.27 display it upon demand by an authorized representative of the commissioner or a law

2.1 enforcement officer. The commissioner shall prescribe the information required on the
2.2 license identification card.

2.3 ~~(c) A commercial animal waste technician applicator must have a minimum of two~~
2.4 ~~hours of certification training in animal waste management and may only~~ A person who
2.5 is not a licensed commercial animal waste technician who has had at least two hours of
2.6 training or experience in animal waste management may manage or apply animal waste
2.7 ~~for hire under the supervision of a commercial animal waste technician site manager. The~~
2.8 ~~commissioner shall prescribe the conditions of the supervision and the form and format~~
2.9 ~~required on the certification training.~~

2.10 (d) This section does not apply to a person managing or applying animal waste on
2.11 land managed by the person's employer.

2.12 Sec. 2. Minnesota Statutes 2013 Supplement, section 18C.430, subdivision 3, is
2.13 amended to read:

2.14 Subd. 3. **License.** ~~(a) A commercial animal waste technician license, including~~
2.15 ~~applicator, site manager, and company:~~

2.16 (1) is valid for ~~one year~~ three years and expires on December 31 of the third year for
2.17 which it is issued, unless suspended or revoked before that date;

2.18 (2) is not transferable to another person; and

2.19 (3) must be prominently displayed to the public in the commercial animal waste
2.20 technician's place of business.

2.21 ~~(b) The commercial animal waste technician company license number assigned by~~
2.22 ~~the commissioner must appear on the application equipment when a person manages~~
2.23 ~~or applies animal waste for hire.~~

2.24 Sec. 3. Minnesota Statutes 2013 Supplement, section 18C.430, subdivision 4, is
2.25 amended to read:

2.26 Subd. 4. **Application.** (a) A person must apply to the commissioner for a commercial
2.27 animal waste technician license on forms and in the manner required by the commissioner
2.28 and must include the application fee. The commissioner shall prescribe and administer
2.29 an examination or equivalent measure to determine if the applicant is eligible for the
2.30 commercial animal waste technician license, ~~site manager license, or applicator license.~~

2.31 (b) The commissioner of agriculture, in cooperation with University of Minnesota
2.32 Extension and appropriate educational institutions, shall establish and implement a
2.33 program for training and licensing commercial animal waste technicians.

3.1 Sec. 4. Minnesota Statutes 2013 Supplement, section 18C.430, subdivision 5, is
3.2 amended to read:

3.3 Subd. 5. **Renewal application.** (a) A person must apply to the commissioner of
3.4 agriculture to renew a commercial animal waste technician license and must include the
3.5 application fee. The commissioner may renew a commercial animal waste technician
3.6 ~~applicator or site manager~~ license, subject to reexamination, attendance at workshops
3.7 approved by the commissioner, or other requirements imposed by the commissioner to
3.8 provide the animal waste technician with information regarding changing technology and
3.9 to help ensure a continuing level of competence and ability to manage and apply animal
3.10 wastes properly. The applicant may renew a commercial animal waste technician license
3.11 within 12 months after expiration of the license without having to meet initial testing
3.12 requirements. The commissioner may require additional demonstration of animal waste
3.13 technician qualification if a person has had a license suspended or revoked or has had a
3.14 history of violations of this section.

3.15 ~~(b) An applicant who meets renewal requirements by reexamination instead~~
3.16 ~~of attending workshops must pay a fee for the reexamination as determined by the~~
3.17 ~~commissioner.~~

3.18 Sec. 5. Minnesota Statutes 2013 Supplement, section 18C.430, subdivision 7, is
3.19 amended to read:

3.20 Subd. 7. **Application fee.** (a) A person initially applying for or renewing
3.21 a commercial animal waste technician ~~applicator~~ license must pay a nonrefundable
3.22 application fee of \$25 \$50 and a fee of \$10 for each additional identification card
3.23 requested. ~~A person initially applying for or renewing a commercial animal waste~~
3.24 ~~technician site manager license must pay a nonrefundable application fee of \$50. A person~~
3.25 ~~initially applying for or renewing a commercial animal waste technician company license~~
3.26 ~~must pay a nonrefundable application fee of \$100.~~

3.27 ~~(b) A license renewal application received after March 1 in the year for which the~~
3.28 ~~license is to be issued is subject to a penalty fee of 50 percent of the application fee. The~~
3.29 ~~penalty fee must be paid before the renewal license may be issued.~~

3.30 ~~(c) An application for a duplicate commercial animal waste technician license must~~
3.31 ~~be accompanied by a nonrefundable fee of \$10.~~

3.32 Sec. 6. Minnesota Statutes 2013 Supplement, section 18C.433, subdivision 1, is
3.33 amended to read:

4.1 Subdivision 1. **Requirement.** Beginning January 1, 2006, only a commercial
 4.2 animal waste technician site manager or commercial animal waste technician applicator
 4.3 may apply animal waste from a feedlot that:

4.4 (1) has a capacity of 300 animal units or more; and

4.5 (2) does not have an updated manure management plan that meets the requirements
 4.6 of Pollution Control Agency rules.

4.7 Sec. 7. Minnesota Statutes 2013 Supplement, section 126C.17, subdivision 5, is
 4.8 amended to read:

4.9 Subd. 5. **Referendum equalization revenue.** (a) A district's referendum
 4.10 equalization revenue equals the sum of the first tier referendum equalization revenue
 4.11 and the second tier referendum equalization revenue, ~~and the third tier referendum~~
 4.12 ~~equalization revenue.~~

4.13 (b) A district's first tier referendum equalization revenue equals the district's first tier
 4.14 referendum equalization allowance times the district's adjusted pupil units for that year.

4.15 (c) A district's first tier referendum equalization allowance equals the lesser of the
 4.16 district's referendum allowance under subdivision 1 or ~~\$300~~ \$760.

4.17 (d) A district's second tier referendum equalization revenue equals the district's
 4.18 second tier referendum equalization allowance times the district's adjusted pupil units for
 4.19 that year.

4.20 (e) A district's second tier referendum equalization allowance equals the lesser of the
 4.21 district's referendum allowance under subdivision 1 or ~~\$760~~ 25 percent of the formula
 4.22 allowance, minus the district's first tier referendum equalization allowance.

4.23 ~~(f) A district's third tier referendum equalization revenue equals the district's third~~
 4.24 ~~tier referendum equalization allowance times the district's adjusted pupil units for that year.~~

4.25 ~~(g) A district's third tier referendum equalization allowance equals the lesser of~~
 4.26 ~~the district's referendum allowance under subdivision 1 or 25 percent of the formula~~
 4.27 ~~allowance, minus the sum of the district's first tier referendum equalization allowance and~~
 4.28 ~~second tier referendum equalization allowance.~~

4.29 ~~(h) (f)~~ Notwithstanding paragraph ~~(g)~~ (e), the ~~third~~ second tier referendum allowance
 4.30 for a district qualifying for secondary sparsity revenue under section 126C.10, subdivision
 4.31 7, or elementary sparsity revenue under section 126C.10, subdivision 8, equals the
 4.32 district's referendum allowance under subdivision 1 minus the ~~sum of the district's first tier~~
 4.33 ~~referendum equalization allowance and second tier referendum equalization allowance.~~

4.34 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2016
 4.35 and later.

5.1 Sec. 8. Minnesota Statutes 2013 Supplement, section 126C.17, subdivision 6, is
5.2 amended to read:

5.3 Subd. 6. **Referendum equalization levy.** (a) ~~For fiscal year 2003 and later,~~
5.4 A district's referendum equalization levy equals the sum of the first tier referendum
5.5 equalization levy, and the second tier referendum equalization levy, ~~and the third tier~~
5.6 ~~referendum equalization levy.~~

5.7 (b) A district's first tier referendum equalization levy equals the district's first tier
5.8 referendum equalization revenue times the lesser of one or the ratio of the district's
5.9 referendum market value per resident pupil unit to ~~\$880,000~~ \$510,000.

5.10 (c) A district's second tier referendum equalization levy equals the district's second
5.11 tier referendum equalization revenue times the lesser of one or the ratio of the district's
5.12 referendum market value per resident pupil unit to ~~\$510,000~~ \$290,000.

5.13 ~~(d) A district's third tier referendum equalization levy equals the district's third~~
5.14 ~~tier referendum equalization revenue times the lesser of one or the ratio of the district's~~
5.15 ~~referendum market value per resident pupil unit to \$290,000.~~

5.16 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2016
5.17 and later.

5.18 Sec. 9. Minnesota Statutes 2013 Supplement, section 126C.17, subdivision 7, is
5.19 amended to read:

5.20 Subd. 7. **Referendum equalization aid.** (a) A district's referendum equalization aid
5.21 equals the difference between its referendum equalization revenue and levy.

5.22 (b) If a district's actual levy for first, or second, ~~or third~~ tier referendum equalization
5.23 revenue is less than its maximum levy limit for that tier, aid shall be proportionately
5.24 reduced.

5.25 (c) Notwithstanding paragraph (a), the referendum equalization aid for a district,
5.26 where the referendum equalization aid under paragraph (a) exceeds 90 percent of the
5.27 referendum revenue, must not exceed 25 percent of the formula allowance times the
5.28 district's adjusted pupil units. A district's referendum levy is increased by the amount of
5.29 any reduction in referendum aid under this paragraph.

5.30 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2016
5.31 and later.

5.32 Sec. 10. Minnesota Statutes 2013 Supplement, section 163.051, subdivision 1, is
5.33 amended to read:

6.1 Subdivision 1. **Tax authorized.** (a) Except as provided in paragraph ~~(e)~~ (b), the
 6.2 board of commissioners of each metropolitan county is authorized to levy by resolution a
 6.3 wheelage tax at the rate ~~specified in paragraph (b)~~ of \$5 per year by resolution, on each
 6.4 motor vehicle that is kept in such county when not in operation and that is subject to
 6.5 annual registration and taxation under chapter 168. The board may provide by resolution
 6.6 for collection of the wheelage tax by county officials or it may request that the tax be
 6.7 collected by the state registrar of motor vehicles. The state registrar of motor vehicles
 6.8 shall collect such tax on behalf of the county if requested, as provided in subdivision 2.

6.9 ~~(b)~~ The wheelage tax under this section is at the rate of:

6.10 ~~(1) from January 1, 2014, through December 31, 2017, \$10 per year for each county~~
 6.11 ~~that authorizes the tax; and~~

6.12 ~~(2) on and after January 1, 2018, up to \$20 per year, in any increment of a whole~~
 6.13 ~~dollar, as specified by each county that authorizes the tax.~~

6.14 ~~(e)~~ (b) The following vehicles are exempt from the wheelage tax:

6.15 (1) motorcycles, as defined in section 169.011, subdivision 44;

6.16 (2) motorized bicycles, as defined in section 169.011, subdivision 45; and

6.17 (3) motorized foot scooters, as defined in section 169.011, subdivision 46.

6.18 ~~(d)~~ (c) For any metropolitan county that authorized the tax prior to May 24, ~~2013~~

6.19 2014, the wheelage tax continues at the rate provided under paragraph ~~(b)~~ (a). For any

6.20 other county that authorized a wheelage tax under this section, the wheelage tax is repealed

6.21 effective for any registration period under chapter 168, starting on or after January 1, 2015.

6.22 **EFFECTIVE DATE.** This section is effective the day following final enactment
 6.23 and applies to a registration period under Minnesota Statutes, chapter 168, starting on
 6.24 or after January 1, 2015.

6.25 Sec. 11. Minnesota Statutes 2013 Supplement, section 163.051, subdivision 2, is
 6.26 amended to read:

6.27 Subd. 2. **Collection by registrar of motor vehicles.** The wheelage tax levied by
 6.28 any metropolitan county, if made collectible by the state registrar of motor vehicles, shall
 6.29 be certified by the county auditor to the registrar not later than August 1 in the year before
 6.30 the calendar year or years for which the tax is levied, and the registrar shall collect such tax
 6.31 with the motor vehicle taxes on the affected vehicles for such year or years. Every owner
 6.32 and every operator of such a motor vehicle shall furnish to the registrar all information
 6.33 requested by the registrar. No state motor vehicle tax on any such motor vehicle for any such
 6.34 year shall be received or deemed paid unless the applicable wheelage tax is paid therewith.

7.1 **EFFECTIVE DATE.** This section is effective the day following final enactment
 7.2 and applies to a registration period under Minnesota Statutes, chapter 168, starting on
 7.3 or after January 1, 2015.

7.4 Sec. 12. Minnesota Statutes 2013 Supplement, section 163.051, subdivision 2a,
 7.5 is amended to read:

7.6 Subd. 2a. **Tax proceeds deposited; costs of collection; appropriation.**
 7.7 Notwithstanding the provisions of any other law, the state registrar of motor vehicles shall
 7.8 deposit the proceeds of the wheelage tax imposed by subdivision 2, to the credit of the
 7.9 county wheelage tax account of each metropolitan county. The amount necessary to pay
 7.10 the costs of collection of said tax is appropriated from the county wheelage tax account of
 7.11 each metropolitan county to the state registrar of motor vehicles.

7.12 **EFFECTIVE DATE.** This section is effective the day following final enactment
 7.13 and applies to a registration period under Minnesota Statutes, chapter 168, starting on
 7.14 or after January 1, 2015.

7.15 Sec. 13. Minnesota Statutes 2013 Supplement, section 163.051, subdivision 3, is
 7.16 amended to read:

7.17 Subd. 3. **Distribution to county; appropriation.** On a monthly basis, the registrar
 7.18 of motor vehicles shall issue a warrant in favor of the treasurer of each metropolitan
 7.19 county for which the registrar has collected a wheelage tax in the amount of such tax then
 7.20 on hand in the county wheelage tax account. There is hereby appropriated from the county
 7.21 wheelage tax account each year, to each county entitled to payments authorized by this
 7.22 section, sufficient moneys to make such payments.

7.23 **EFFECTIVE DATE.** This section is effective the day following final enactment
 7.24 and applies to a registration period under Minnesota Statutes, chapter 168, starting on
 7.25 or after January 1, 2015.

7.26 Sec. 14. Minnesota Statutes 2013 Supplement, section 163.051, is amended by adding
 7.27 a subdivision to read:

7.28 Subd. 6a. **Metropolitan county defined.** "Metropolitan county" means any of the
 7.29 counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

7.30 **EFFECTIVE DATE.** This section is effective the day following final enactment
 7.31 and applies to a registration period under Minnesota Statutes, chapter 168, starting on
 7.32 or after January 1, 2015.

8.1 Sec. 15. Minnesota Statutes 2013 Supplement, section 270B.01, subdivision 8, is
8.2 amended to read:

8.3 Subd. 8. **Minnesota tax laws.** For purposes of this chapter only, unless expressly
8.4 stated otherwise, "Minnesota tax laws" means:

8.5 (1) the taxes, refunds, and fees administered by or paid to the commissioner under
8.6 chapters 115B, 289A (except taxes imposed under sections 298.01, 298.015, and 298.24),
8.7 290, 290A, 291, ~~292~~, 295, 297A, 297B, 297H, and 403, or any similar Indian tribal tax
8.8 administered by the commissioner pursuant to any tax agreement between the state and
8.9 the Indian tribal government, and includes any laws for the assessment, collection, and
8.10 enforcement of those taxes, refunds, and fees; and

8.11 (2) section 273.1315.

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

8.13 Sec. 16. Minnesota Statutes 2013 Supplement, section 270B.03, subdivision 1, is
8.14 amended to read:

8.15 Subdivision 1. **Who may inspect.** Returns and return information must, on request,
8.16 be made open to inspection by or disclosure to the data subject. The request must be made
8.17 in writing or in accordance with written procedures of the chief disclosure officer of the
8.18 department that have been approved by the commissioner to establish the identification
8.19 of the person making the request as the data subject. For purposes of this chapter, the
8.20 following are the data subject:

8.21 (1) in the case of an individual return, that individual;

8.22 (2) in the case of an income tax return filed jointly, either of the individuals with
8.23 respect to whom the return is filed;

8.24 (3) in the case of a return filed by a business entity, an officer of a corporation,
8.25 a shareholder owning more than one percent of the stock, or any shareholder of an S
8.26 corporation; a general partner in a partnership; the owner of a sole proprietorship; a
8.27 member or manager of a limited liability company; a participant in a joint venture; the
8.28 individual who signed the return on behalf of the business entity; or an employee who is
8.29 responsible for handling the tax matters of the business entity, such as the tax manager,
8.30 bookkeeper, or managing agent;

8.31 (4) in the case of an estate return:

8.32 (i) the personal representative or trustee of the estate; and

8.33 (ii) any beneficiary of the estate as shown on the federal estate tax return;

8.34 (5) in the case of a trust return:

8.35 (i) the trustee or trustees, jointly or separately; and

- 9.1 (ii) any beneficiary of the trust as shown in the trust instrument;
- 9.2 (6) if liability has been assessed to a transferee under section 270C.58, subdivision
- 9.3 1, the transferee is the data subject with regard to the returns and return information
- 9.4 relating to the assessed liability;
- 9.5 (7) in the case of an Indian tribal government or an Indian tribal government-owned
- 9.6 entity,
- 9.7 (i) the chair of the tribal government, or
- 9.8 (ii) any person authorized by the tribal government; and
- 9.9 (8) in the case of a successor as defined in section 270C.57, subdivision 1, paragraph
- 9.10 (b), the successor is the data subject and information may be disclosed as provided by
- 9.11 section 270C.57, subdivision 4; ~~and~~
- 9.12 ~~(9) in the case of a gift return, the donor.~~

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

9.14 Sec. 17. Minnesota Statutes 2013 Supplement, section 273.117, is amended to read:

9.15 **273.117 CONSERVATION PROPERTY TAX VALUATION.**

9.16 The value of real property which is subject to a conservation restriction or easement

9.17 ~~shall not be reduced~~ may be adjusted by the assessor if:

9.18 (a) the restriction or easement is for a conservation purpose as defined in section

9.19 84.64, subdivision 2, and is recorded on the property; and

9.20 (b) the property is being used in accordance with the terms of the conservation

9.21 restriction or easement.

9.22 ~~This section does not apply to (1) conservation restrictions or easements covering~~

9.23 ~~riparian buffers along lakes, rivers, and streams that are used for water quantity or quality~~

9.24 ~~control; or (2) easements in a county that has adopted, by referendum, a program to protect~~

9.25 ~~farmland and natural areas since 1999.~~

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

9.27 2014, for taxes payable in 2015.

9.28 Sec. 18. Minnesota Statutes 2013 Supplement, section 291.005, subdivision 1, is

9.29 amended to read:

9.30 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following

9.31 terms used in this chapter shall have the following meanings:

9.32 (1) "Commissioner" means the commissioner of revenue or any person to whom the

9.33 commissioner has delegated functions under this chapter.

10.1 (2) "Federal gross estate" means the gross estate of a decedent as required to be valued
10.2 and otherwise determined for federal estate tax purposes under the Internal Revenue Code.

10.3 (3) "Internal Revenue Code" means the United States Internal Revenue Code of
10.4 1986, as amended through January 3, 2013, but without regard to the provisions of section
10.5 2011, paragraph (f), of the Internal Revenue Code.

10.6 (4) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as
10.7 defined by section 2011(b)(3) of the Internal Revenue Code, plus

10.8 (i) the amount of deduction for state death taxes allowed under section 2058 of the
10.9 Internal Revenue Code;

10.10 ~~(ii) the amount of taxable gifts, as defined in section 292.16, and made by the~~
10.11 ~~decedent within three years of the decedent's date of death;~~ less

10.12 ~~(iii) (ii)(A) the value of qualified small business property under section 291.03,~~
10.13 ~~subdivision 9, and the value of qualified farm property under section 291.03, subdivision~~
10.14 ~~10, or (B) \$4,000,000, whichever is less.~~

10.15 (5) "Minnesota gross estate" means the federal gross estate of a decedent after (a)
10.16 excluding therefrom any property included therein which has its situs outside Minnesota,
10.17 and (b) including therein any property omitted from the federal gross estate which is
10.18 includable therein, has its situs in Minnesota, and was not disclosed to federal taxing
10.19 authorities.

10.20 (6) "Nonresident decedent" means an individual whose domicile at the time of
10.21 death was not in Minnesota.

10.22 (7) "Personal representative" means the executor, administrator or other person
10.23 appointed by the court to administer and dispose of the property of the decedent. If there
10.24 is no executor, administrator or other person appointed, qualified, and acting within this
10.25 state, then any person in actual or constructive possession of any property having a situs in
10.26 this state which is included in the federal gross estate of the decedent shall be deemed
10.27 to be a personal representative to the extent of the property and the Minnesota estate tax
10.28 due with respect to the property.

10.29 (8) "Resident decedent" means an individual whose domicile at the time of death
10.30 was in Minnesota.

10.31 (9) "Situs of property" means, with respect to:

10.32 (i) real property, the state or country in which it is located;

10.33 (ii) tangible personal property, the state or country in which it was normally kept
10.34 or located at the time of the decedent's death ~~or for a gift of tangible personal property~~
10.35 ~~within three years of death, the state or country in which it was normally kept or located~~
10.36 ~~when the gift was executed; and~~

11.1 (iii) intangible personal property, the state or country in which the decedent was
 11.2 domiciled at death ~~or for a gift of intangible personal property within three years of death,~~
 11.3 ~~the state or country in which the decedent was domiciled when the gift was executed.~~

11.4 For a nonresident decedent with an ownership interest in a pass-through entity
 11.5 with assets that include real or tangible personal property, situs of the real or tangible
 11.6 personal property is determined as if the pass-through entity does not exist and the real
 11.7 or tangible personal property is personally owned by the decedent. If the pass-through
 11.8 entity is owned by a person or persons in addition to the decedent, ownership of the
 11.9 property is attributed to the decedent in proportion to the decedent's capital ownership
 11.10 share of the pass-through entity.

11.11 (10) "Pass-through entity" includes the following:

11.12 (i) an entity electing S corporation status under section 1362 of the Internal Revenue
 11.13 Code;

11.14 (ii) an entity taxed as a partnership under subchapter K of the Internal Revenue Code;

11.15 (iii) a single-member limited liability company or similar entity, regardless of
 11.16 whether it is taxed as an association or is disregarded for federal income tax purposes
 11.17 under Code of Federal Regulations, title 26, section 301.7701-3; or

11.18 (iv) a trust to the extent the property is includible in the decedent's federal gross estate.

11.19 **EFFECTIVE DATE.** This section is effective retroactively for gifts made after
 11.20 June 30, 2013.

11.21 Sec. 19. Minnesota Statutes 2013 Supplement, section 291.03, subdivision 1, is
 11.22 amended to read:

11.23 Subdivision 1. **Tax amount.** (a) The tax imposed shall be an amount equal to the
 11.24 proportion of the maximum credit for state death taxes computed under section 2011 of
 11.25 the Internal Revenue Code, but using Minnesota adjusted taxable estate instead of federal
 11.26 adjusted taxable estate, as the Minnesota gross estate bears to the value of the federal
 11.27 gross estate. The tax is reduced by:

11.28 ~~(1) the gift tax paid by the decedent under section 292.17 on gifts included in the~~
 11.29 ~~Minnesota adjusted taxable estate and not subtracted as qualified farm or small business~~
 11.30 ~~property; and~~

11.31 ~~(2) any credit allowed under subdivision 1c.~~

11.32 (b) The tax determined under this subdivision must not be greater than the sum of
 11.33 the following amounts multiplied by a fraction, the numerator of which is the Minnesota
 11.34 gross estate and the denominator of which is the federal gross estate:

12.1 (1) the rates and brackets under section 2001(c) of the Internal Revenue Code

12.2 multiplied by the sum of:

12.3 (i) the taxable estate, as defined under section 2051 of the Internal Revenue Code; plus

12.4 (ii) adjusted taxable gifts, as defined in section 2001(b) of the Internal Revenue
12.5 Code; less

12.6 (iii) the lesser of (A) the sum of the value of qualified small business property
12.7 under subdivision 9, and the value of qualified farm property under subdivision 10, or
12.8 (B) \$4,000,000; less

12.9 (2) the amount of tax allowed under section 2001(b)(2) of the Internal Revenue
12.10 Code; and less

12.11 (3) the federal credit allowed under section 2010 of the Internal Revenue Code.

12.12 (c) For purposes of this subdivision, "Internal Revenue Code" means the Internal
12.13 Revenue Code of 1986, as amended through December 31, 2000.

12.14 **EFFECTIVE DATE.** This section is effective retroactively for gifts made after
12.15 June 30, 2013.

12.16 Sec. 20. Minnesota Statutes 2013 Supplement, section 297A.61, subdivision 3, is
12.17 amended to read:

12.18 Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited
12.19 to, each of the transactions listed in this subdivision. In applying the provisions of this
12.20 chapter, the terms "tangible personal property" and "retail sale" include the taxable
12.21 services listed in paragraph (g), clause (6), items (i) to (vi) and (viii), and the provision
12.22 of these taxable services, unless specifically provided otherwise. Services performed by
12.23 an employee for an employer are not taxable. Services performed by a partnership or
12.24 association for another partnership or association are not taxable if one of the entities owns
12.25 or controls more than 80 percent of the voting power of the equity interest in the other
12.26 entity. Services performed between members of an affiliated group of corporations are not
12.27 taxable. For purposes of the preceding sentence, "affiliated group of corporations" means
12.28 those entities that would be classified as members of an affiliated group as defined under
12.29 United States Code, title 26, section 1504, disregarding the exclusions in section 1504(b).

12.30 (b) Sale and purchase include:

12.31 (1) any transfer of title or possession, or both, of tangible personal property, whether
12.32 absolutely or conditionally, for a consideration in money or by exchange or barter; and

12.33 (2) the leasing of or the granting of a license to use or consume, for a consideration
12.34 in money or by exchange or barter, tangible personal property, other than a manufactured
12.35 home used for residential purposes for a continuous period of 30 days or more.

13.1 (c) Sale and purchase include the production, fabrication, printing, or processing of
13.2 tangible personal property for a consideration for consumers who furnish either directly or
13.3 indirectly the materials used in the production, fabrication, printing, or processing.

13.4 (d) Sale and purchase include the preparing for a consideration of food.
13.5 Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited
13.6 to, the following:

- 13.7 (1) prepared food sold by the retailer;
- 13.8 (2) soft drinks;
- 13.9 (3) candy;
- 13.10 (4) dietary supplements; and
- 13.11 (5) all food sold through vending machines.

13.12 (e) A sale and a purchase includes the furnishing for a consideration of electricity,
13.13 gas, water, or steam for use or consumption within this state.

13.14 (f) A sale and a purchase includes the transfer for a consideration of prewritten
13.15 computer software whether delivered electronically, by load and leave, or otherwise.

13.16 (g) A sale and a purchase includes the furnishing for a consideration of the following
13.17 services:

13.18 (1) the privilege of admission to places of amusement, recreational areas, or athletic
13.19 events, and the making available of amusement devices, tanning facilities, reducing
13.20 salons, steam baths, Turkish baths, health clubs, and spas or athletic facilities;

13.21 (2) lodging and related services by a hotel, rooming house, resort, campground,
13.22 motel, or trailer camp, including furnishing the guest of the facility with access to
13.23 telecommunication services, and the granting of any similar license to use real property in
13.24 a specific facility, other than the renting or leasing of it for a continuous period of 30 days
13.25 or more under an enforceable written agreement that may not be terminated without prior
13.26 notice and including accommodations intermediary services provided in connection with
13.27 other services provided under this clause;

13.28 (3) nonresidential parking services, whether on a contractual, hourly, or other
13.29 periodic basis, except for parking at a meter;

13.30 (4) the granting of membership in a club, association, or other organization if:

13.31 (i) the club, association, or other organization makes available for the use of its
13.32 members sports and athletic facilities, without regard to whether a separate charge is
13.33 assessed for use of the facilities; and

13.34 (ii) use of the sports and athletic facility is not made available to the general public
13.35 on the same basis as it is made available to members.

14.1 Granting of membership means both onetime initiation fees and periodic membership
14.2 dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and
14.3 squash courts; basketball and volleyball facilities; running tracks; exercise equipment;
14.4 swimming pools; and other similar athletic or sports facilities;

14.5 (5) delivery of aggregate materials by a third party, excluding delivery of aggregate
14.6 material used in road construction; and delivery of concrete block by a third party if the
14.7 delivery would be subject to the sales tax if provided by the seller of the concrete block.

14.8 For purposes of this clause, "road construction" means construction of:

14.9 (i) public roads;

14.10 (ii) cartways; and

14.11 (iii) private roads in townships located outside of the seven-county metropolitan area
14.12 up to the point of the emergency response location sign; and

14.13 (6) services as provided in this clause:

14.14 (i) laundry and dry cleaning services including cleaning, pressing, repairing, altering,
14.15 and storing clothes, linen services and supply, cleaning and blocking hats, and carpet,
14.16 drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not
14.17 include services provided by coin operated facilities operated by the customer;

14.18 (ii) motor vehicle washing, waxing, and cleaning services, including services
14.19 provided by coin operated facilities operated by the customer, and rustproofing,
14.20 undercoating, and towing of motor vehicles;

14.21 (iii) building and residential cleaning, maintenance, and disinfecting services and
14.22 pest control and exterminating services;

14.23 (iv) detective, security, burglar, fire alarm, and armored car services; but not
14.24 including services performed within the jurisdiction they serve by off-duty licensed peace
14.25 officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit
14.26 organization or any organization at the direction of a county for monitoring and electronic
14.27 surveillance of persons placed on in-home detention pursuant to court order or under the
14.28 direction of the Minnesota Department of Corrections;

14.29 (v) pet grooming services;

14.30 (vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting
14.31 and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor
14.32 plant care; tree, bush, shrub, and stump removal, except when performed as part of a land
14.33 clearing contract as defined in section 297A.68, subdivision 40; and tree trimming for
14.34 public utility lines. Services performed under a construction contract for the installation of
14.35 shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

15.1 (vii) massages, except when provided by a licensed health care facility or
15.2 professional or upon written referral from a licensed health care facility or professional for
15.3 treatment of illness, injury, or disease; and

15.4 (viii) the furnishing of lodging, board, and care services for animals in kennels and
15.5 other similar arrangements, but excluding veterinary and horse boarding services.

15.6 (h) A sale and a purchase includes the furnishing for a consideration of tangible
15.7 personal property or taxable services by the United States or any of its agencies or
15.8 instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political
15.9 subdivisions.

15.10 (i) A sale and a purchase includes the furnishing for a consideration of
15.11 telecommunications services, ancillary services associated with telecommunication
15.12 services, and pay television services. Telecommunication services include, but are
15.13 not limited to, the following services, as defined in section 297A.669: air-to-ground
15.14 radiotelephone service, mobile telecommunication service, postpaid calling service,
15.15 prepaid calling service, prepaid wireless calling service, and private communication
15.16 services. The services in this paragraph are taxed to the extent allowed under federal law.

15.17 (j) A sale and a purchase includes the furnishing for a consideration of installation if
15.18 the installation charges would be subject to the sales tax if the installation were provided
15.19 by the seller of the item being installed.

15.20 (k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer
15.21 to a customer when (1) the vehicle is rented by the customer for a consideration, or (2)
15.22 the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section
15.23 59B.02, subdivision 11.

15.24 (l) A sale and a purchase includes furnishing for a consideration of specified digital
15.25 products or other digital products or granting the right for a consideration to use specified
15.26 digital products or other digital products on a temporary or permanent basis and regardless
15.27 of whether the purchaser is required to make continued payments for such right. Wherever
15.28 the term "tangible personal property" is used in this chapter, other than in subdivisions 10
15.29 and 38, the provisions also apply to specified digital products, or other digital products,
15.30 unless specifically provided otherwise or the context indicates otherwise.

15.31 ~~(m) A sale and purchase includes the furnishing for consideration of the following~~
15.32 ~~services:~~

15.33 ~~(1) repairing and maintaining electronic and precision equipment, which service can~~
15.34 ~~be deducted as a business expense under the Internal Revenue Code. This includes, but~~
15.35 ~~is not limited to, repair or maintenance of electronic devices, computers and computer~~
15.36 ~~peripherals, monitors, computer terminals, storage devices, and CD-ROM drives; other~~

16.1 ~~office equipment such as photocopying machines, printers, and facsimile machines;~~
 16.2 ~~televisions, stereos, sound systems, video or digital recorders and players; two-way radios~~
 16.3 ~~and other communications equipment; radar and sonar equipment, scientific instruments,~~
 16.4 ~~microscopes, and medical equipment;~~

16.5 ~~(2) repairing and maintaining commercial and industrial machinery and equipment.~~

16.6 ~~For purposes of this subdivision, the following items are not commercial or industrial~~
 16.7 ~~machinery and equipment: (i) motor vehicles; (ii) furniture and fixtures; (iii) ships; (iv)~~
 16.8 ~~railroad stock; and (v) aircraft; and~~

16.9 ~~(3) warehousing or storage services for tangible personal property, excluding:~~

16.10 ~~(i) agricultural products;~~

16.11 ~~(ii) refrigerated storage;~~

16.12 ~~(iii) electronic data; and~~

16.13 ~~(iv) self-storage services and storage of motor vehicles, recreational vehicles, and~~
 16.14 ~~boats, not eligible to be deducted as a business expense under the Internal Revenue Code.~~

16.15 **EFFECTIVE DATE.** This section is effective retroactively for sales and purchases
 16.16 made after June 30, 2013. Any person that paid sales tax on purchases exempted under
 16.17 this section may apply for a direct refund. If the purchaser qualifies to apply for a refund
 16.18 under Minnesota Statutes, section 289A.50, subdivision 2a, they must file under that
 16.19 provision; all others may apply for a direct refund under section 24.

16.20 Sec. 21. Minnesota Statutes 2012, section 297A.68, is amended by adding a
 16.21 subdivision to read:

16.22 Subd. 35a. **Telecommunications and pay television services machinery and**
 16.23 **equipment.** (a) Telecommunications or pay television services machinery and equipment
 16.24 purchased or leased for use directly by a telecommunications or pay television service
 16.25 provider primarily in the provision of telecommunications or pay television services
 16.26 that are ultimately to be sold at retail are exempt, regardless of whether purchased by
 16.27 the owner, a contractor, or a subcontractor.

16.28 (b) For purposes of this subdivision, "telecommunications or pay television services
 16.29 machinery and equipment" includes, but is not limited to:

16.30 (1) machinery, equipment, and fixtures utilized in receiving, initiating,
 16.31 amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring
 16.32 telecommunications or pay television services, such as computers, transformers, amplifiers,
 16.33 routers, bridges, repeaters, multiplexers, and other items performing comparable functions;

16.34 (2) machinery, equipment, and fixtures used in the transportation of
 16.35 telecommunications or pay television services, such as radio transmitters and receivers,

17.1 satellite equipment, microwave equipment, and other transporting media, but not wire,
 17.2 cable, fiber, poles, or conduit;

17.3 (3) ancillary machinery, equipment, and fixtures that regulate, control, protect, or
 17.4 enable the machinery in clauses (1) and (2) to accomplish its intended function, such as
 17.5 auxiliary power supply, test equipment, towers, heating, ventilating, and air conditioning
 17.6 equipment necessary to the operation of the telecommunications or pay television services
 17.7 equipment, and software necessary to the operation of the telecommunications or pay
 17.8 television services equipment; and

17.9 (4) repair and replacement parts, including accessories, whether purchased as spare
 17.10 parts, repair parts, or as upgrades or modifications to qualified machinery or equipment.

17.11 **EFFECTIVE DATE.** This section is effective retroactively for sales and purchases
 17.12 made after June 30, 2013. Any person that paid sales tax on purchases exempted under
 17.13 this section may apply for a direct refund. If the purchaser qualifies to apply for a refund
 17.14 under Minnesota Statutes, section 289A.50, subdivision 2a, they must file under that
 17.15 provision; all others may apply for a direct refund under section 24.

17.16 Sec. 22. Minnesota Statutes 2013 Supplement, section 297A.993, subdivision 1,
 17.17 is amended to read:

17.18 Subdivision 1. **Authorization; rates.** Notwithstanding section 297A.99,
 17.19 subdivisions 1, 2, 3, 5, and 13, or 477A.016, or any other law, the board of a county outside
 17.20 the metropolitan transportation area, as defined under section 297A.992, subdivision 1, or
 17.21 more than one county outside the metropolitan transportation area acting under a joint
 17.22 powers agreement, ~~may by resolution of the county board, or each of the county boards,~~
 17.23 ~~following a public hearing~~ impose (1) a transportation sales tax at a rate of up to one-half
 17.24 of one percent on retail sales and uses taxable under this chapter, and (2) an excise tax
 17.25 of \$20 per motor vehicle, as defined in section 297B.01, subdivision 11, purchased or
 17.26 acquired from any person engaged in the business of selling motor vehicles at retail,
 17.27 occurring within the jurisdiction of the taxing authority. The taxes imposed under this
 17.28 section are subject to approval by a majority of voters in each of the counties affected at a
 17.29 general election who vote on the question to impose the taxes. Any taxes imposed under
 17.30 this section by January 1, 2014, without voter approval shall expire as soon as revenues
 17.31 raised are sufficient to pay the capital costs of the specified transportation or transit
 17.32 project, including any associated bond costs.

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

18.1 Sec. 23. **RECISION OF BOARD-APPROVED REFERENDUM LEVIES.**

18.2 Any levies approved under the authority granted under Minnesota Statutes 2013
18.3 Supplement, section 126C.17, subdivision 9a, are hereby rescinded.

18.4 **EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2016
18.5 and later.

18.6 Sec. 24. **SALES TAX; TEMPORARY REFUND MECHANISM.**

18.7 Any purchaser that paid sales tax on items under the repealed paragraph (m)
18.8 of Minnesota Statutes, section 297A.61, subdivision 3, that may not file for a refund
18.9 under Minnesota Statutes, section 289A.50, subdivision 2a, may apply directly to the
18.10 commissioner of revenue for a refund under this section. This provision only applies to
18.11 sales made after June 30, 2013, and before July 1, 2014. The application must be made on
18.12 forms prescribed by the commissioner and the purchaser may make only one application
18.13 for the entire period. Interest on the refund shall be paid at the rate in Minnesota Statutes,
18.14 section 270C.405, from 90 days after the refund claim is filed with the commissioner
18.15 of revenue. The amount required to make the refunds is annually appropriated to the
18.16 commissioner of revenue.

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

18.18 Sec. 25. **REPEALER.**

18.19 (a) Minnesota Statutes 2013 Supplement, sections 126C.13, subdivisions 3a, 3b, and
18.20 3c; and 126C.17, subdivision 9a, are repealed.

18.21 (b) Minnesota Statutes 2013 Supplement, sections 292.16; 292.17; 292.18; 292.19;
18.22 292.20; and 292.21, are repealed.

18.23 **EFFECTIVE DATE.** Paragraph (a) is effective for revenue for fiscal year 2016 and
18.24 later. Paragraph (b) is effective retroactively for gifts made after June 30, 2013.

126C.13 GENERAL EDUCATION AID.

Subd. 3a. **Student achievement rate.** The commissioner must establish the student achievement rate by July 1 of each year for levies payable in the following year. The student achievement rate must be a rate, rounded up to the nearest hundredth of a percent, that, when applied to the adjusted net tax capacity for all districts, raises the amount specified in this subdivision. The student achievement rate must be the rate that raises \$20,000,000 for fiscal year 2015 and later years. The student achievement rate may not be changed due to changes or corrections made to a district's adjusted net tax capacity after the rate has been established.

Subd. 3b. **Student achievement levy.** To obtain general education revenue, a district may levy an amount not to exceed the student achievement rate times the adjusted net tax capacity of the district for the preceding year. If the amount of the student achievement levy would exceed the general education revenue, the student achievement levy must be determined according to subdivision 3c.

Subd. 3c. **Student achievement levy; districts off the formula.** (a) If the amount of the student achievement levy for a district exceeds the district's general education revenue, excluding operating capital revenue, equity revenue, and transition revenue, the amount of the student achievement levy must be limited to the district's general education revenue, excluding operating capital revenue, equity revenue, and transition revenue.

(b) A levy made according to this subdivision shall also be construed to be the levy made according to subdivision 3b.

126C.17 REFERENDUM REVENUE.

Subd. 9a. **Board-approved referendum allowance.** Notwithstanding subdivision 9, a school district may convert up to \$300 per adjusted pupil unit of referendum authority from voter approved to board approved by a board vote. A district with less than \$300 per adjusted pupil unit of referendum authority may authorize new referendum authority up to the difference between \$300 per adjusted pupil unit and the district's referendum authority. The board may authorize this levy for up to five years and may subsequently reauthorize that authority in increments of up to five years.

292.16 DEFINITIONS.

(a) For purposes of this chapter, the following definitions apply.

(b) The definitions of terms defined in section 291.005 apply.

(c) "Resident" has the meaning given in section 290.01, subdivision 7, paragraph (a).

(d) "Taxable gifts" means:

(1) the transfers by gift which are included in taxable gifts for federal gift tax purposes under the following sections of the Internal Revenue Code:

(i) section 2503;

(ii) sections 2511 to 2514; and

(iii) sections 2516 to 2519; less

(2) the deductions allowed in sections 2522 to 2524 of the Internal Revenue Code.

292.17 GIFT TAX.

Subdivision 1. **Imposition.** (a) A tax is imposed on the transfer of property by gift by any individual resident or nonresident in an amount equal to ten percent of the amount of the taxable gift.

(b) The donor is liable for payment of the tax. If the gift tax is not paid when due, the donee of any gift is personally liable for the tax to the extent of the value of the gift.

Subd. 2. **Lifetime credit.** A credit is allowed against the tax imposed under this section equal to \$100,000. This credit applies to the cumulative amount of taxable gifts made by the donor during the donor's lifetime.

Subd. 3. **Out-of-state gifts.** Taxable gifts exclude the transfer of:

(1) real property located outside of this state;

(2) tangible personal property that was normally kept at a location outside of the state on the date the gift was executed; and

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(3) intangible personal property made by an individual who is not a resident at the time the gift was executed.

292.18 RETURNS.

(a) Any individual who makes a taxable gift during the taxable year shall file a gift tax return in the form and manner prescribed by the commissioner.

(b) If the donor dies before filing the return, the executor of the donor's will or the administrator of the donor's estate shall file the return. If the donor becomes legally incompetent before filing the return, the guardian or conservator shall file the return.

(c) The return must include:

(1) each gift made during the calendar year which is to be included in computing the taxable gifts;

(2) the deductions claimed and allowable under section 292.16, paragraph (d), clause (2);

(3) a description of the gift, and the donee's name, address, and Social Security number;

(4) the fair market value of gifts not made in money; and

(5) any other information the commissioner requires to administer the gift tax.

292.19 FILING REQUIREMENTS.

Gift tax returns must be filed by the April 15 following the close of the calendar year, except if a gift is made during the calendar year in which the donor dies, the return for the donor must be filed by the last date, including extensions, for filing the gift tax return for federal gift tax purposes for the donor.

292.20 APPRAISAL OF PROPERTY; DECLARATION BY DONOR.

The commissioner may require the donor or the donee to show the property subject to the tax under section 292.17 to the commissioner upon demand and may employ a suitable person to appraise the property. The donor shall submit a declaration, in a form prescribed by the commissioner and including any certification required by the commissioner, that the property shown by the donor on the gift tax return includes all of the property transferred by gift for the calendar year and not deductible under section 292.16, paragraph (d), clause (2).

292.21 ADMINISTRATIVE PROVISIONS.

Subdivision 1. **Payment of tax; penalty for late payment.** The tax imposed under section 292.17 is due and payable to the commissioner by the April 15 following the close of the calendar year during which the gift was made. The return required under section 292.19 must be included with the payment. If a taxable gift is made during the calendar year in which the donor dies, the due date is the last date, including extensions, for filing the gift tax return for federal gift tax purposes for the donor. If any person fails to pay the tax due within the time specified under this section, a penalty applies equal to ten percent of the amount due and unpaid or \$100, whichever is greater. The unpaid tax and penalty bear interest at the rate under section 270C.40 from the due date of the return.

Subd. 2. **Extensions.** The commissioner may, for good cause, extend the time for filing a gift tax return, if a written request is filed with a tentative return accompanied by a payment of the tax, which is estimated in the tentative return, on or before the last day for filing the return. Any person to whom an extension is granted must pay, in addition to the tax, interest at the rate under section 270C.40 from the date on which the tax would have been due without the extension.

Subd. 3. **Changes in federal gift tax.** If the amount of a taxpayer's taxable gifts for federal gift tax purposes, as reported on the taxpayer's federal gift tax return for any calendar year, is changed or corrected by the Internal Revenue Service or other officer of the United States or other competent authority, the taxpayer shall report the change or correction in federal taxable gifts within 180 days after the final determination of the change or correction, and concede the accuracy of the determination or provide a letter detailing how the federal determination is incorrect or does not change the Minnesota gift tax. Any taxpayer filing an amended federal gift tax return shall also file within 180 days an amended return under this chapter and shall include any information the commissioner requires. The time for filing the report or amended return may be extended by the commissioner upon due cause shown. Notwithstanding any limitation of time in this chapter, if, upon examination, the commissioner finds that the taxpayer is liable for the payment of an additional tax, the commissioner shall, within a reasonable time from the receipt of the report or amended return, notify the taxpayer of the amount of additional tax, together with

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interest computed at the rate under section 270C.40 from the date when the original tax was due and payable. Within 30 days of the mailing of the notice, the taxpayer shall pay the commissioner the amount of the additional tax and interest. If, upon examination of the report or amended return and related information, the commissioner finds that the taxpayer has overpaid the tax due the state, the commissioner shall refund the overpayment to the taxpayer.

Subd. 4. **Application of federal rules.** In administering the tax under this chapter, the commissioner shall apply the provisions of sections 2701 to 2704 of the Internal Revenue Code. The words "secretary or his delegate," as used in those sections of the Internal Revenue Code, mean the commissioner.