

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1218

(SENATE AUTHORS: CHAMBERLAIN)

DATE
02/20/2017

D-PG
677 Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to taxation; making policy changes to corporate franchise taxes, property

1.3 taxes, local government aids, sales and use taxes, special taxes, paid preparers,

1.4 and other taxes and tax provisions; amending Minnesota Statutes 2016, sections

1.5 84.82, subdivision 10; 84.922, subdivision 11; 86B.401, subdivision 12; 270.074,

1.6 subdivision 1; 270B.14, by adding subdivisions; 270C.445, subdivisions 2, 3, 5a,

1.7 6, 6a, 6b, 6c, 7, 8, by adding a subdivision; 270C.446, subdivisions 2, 3, 4, 5;

1.8 270C.447, subdivisions 1, 2, 3, by adding a subdivision; 272.025, subdivision 1;

1.9 272.0295, by adding a subdivision; 272.03, subdivision 1; 272.115, subdivisions

1.10 1, 2, 3; 273.0755; 273.124, subdivisions 13, 13d; 273.21; 274.014, subdivision 3;

1.11 274.135, subdivision 3; 289A.50, subdivision 2a; 289A.60, subdivisions 13, 28;

1.12 290.191, subdivision 5; 296A.01, subdivision 7; 297A.61, by adding a subdivision;

1.13 297B.07; 297I.30, subdivision 7; 477A.0124, by adding a subdivision; proposing

1.14 coding for new law in Minnesota Statutes, chapter 297A; repealing Minnesota

1.15 Statutes 2016, sections 270.074, subdivision 2; 270C.445, subdivision 1; 270C.447,

1.16 subdivision 4; Minnesota Rules, part 8125.1300, subpart 3.

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

1.18 **ARTICLE 1**

1.19 **CORPORATE FRANCHISE TAX**

1.20 Section 1. Minnesota Statutes 2016, section 290.191, subdivision 5, is amended to read:

1.21 Subd. 5. **Determination of sales factor.** For purposes of this section, the following rules

1.22 apply in determining the sales factor.

1.23 (a) The sales factor includes all sales, gross earnings, or receipts received in the ordinary

1.24 course of the business, except that the following types of income are not included in the

1.25 sales factor:

1.26 (1) interest;

1.27 (2) dividends;

2.1 (3) sales of capital assets as defined in section 1221 of the Internal Revenue Code;

2.2 (4) sales of property used in the trade or business, except sales of leased property of a
2.3 type which is regularly sold as well as leased; ~~and~~

2.4 (5) sales of debt instruments as defined in section 1275(a)(1) of the Internal Revenue
2.5 Code or sales of stock; and

2.6 (6) sales of derivatives, including but not limited to swaps, options, futures, and forwards.

2.7 (b) Sales of tangible personal property are made within this state if the property is
2.8 received by a purchaser at a point within this state, regardless of the f.o.b. point, other
2.9 conditions of the sale, or the ultimate destination of the property.

2.10 (c) Tangible personal property delivered to a common or contract carrier or foreign
2.11 vessel for delivery to a purchaser in another state or nation is a sale in that state or nation,
2.12 regardless of f.o.b. point or other conditions of the sale.

2.13 (d) Notwithstanding paragraphs (b) and (c), when intoxicating liquor, wine, fermented
2.14 malt beverages, cigarettes, or tobacco products are sold to a purchaser who is licensed by
2.15 a state or political subdivision to resell this property only within the state of ultimate
2.16 destination, the sale is made in that state.

2.17 (e) Sales made by or through a corporation that is qualified as a domestic international
2.18 sales corporation under section 992 of the Internal Revenue Code are not considered to have
2.19 been made within this state.

2.20 (f) Sales, rents, royalties, and other income in connection with real property is attributed
2.21 to the state in which the property is located.

2.22 (g) Receipts from the lease or rental of tangible personal property, including finance
2.23 leases and true leases, must be attributed to this state if the property is located in this state
2.24 and to other states if the property is not located in this state. Receipts from the lease or rental
2.25 of moving property including, but not limited to, motor vehicles, rolling stock, aircraft,
2.26 vessels, or mobile equipment are included in the numerator of the receipts factor to the
2.27 extent that the property is used in this state. The extent of the use of moving property is
2.28 determined as follows:

2.29 (1) A motor vehicle is used wholly in the state in which it is registered.

2.30 (2) The extent that rolling stock is used in this state is determined by multiplying the
2.31 receipts from the lease or rental of the rolling stock by a fraction, the numerator of which

3.1 is the miles traveled within this state by the leased or rented rolling stock and the denominator
3.2 of which is the total miles traveled by the leased or rented rolling stock.

3.3 (3) The extent that an aircraft is used in this state is determined by multiplying the
3.4 receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the
3.5 number of landings of the aircraft in this state and the denominator of which is the total
3.6 number of landings of the aircraft.

3.7 (4) The extent that a vessel, mobile equipment, or other mobile property is used in the
3.8 state is determined by multiplying the receipts from the lease or rental of the property by a
3.9 fraction, the numerator of which is the number of days during the taxable year the property
3.10 was in this state and the denominator of which is the total days in the taxable year.

3.11 (h) Royalties and other income received for the use of or for the privilege of using
3.12 intangible property, including patents, know-how, formulas, designs, processes, patterns,
3.13 copyrights, trade names, service names, franchises, licenses, contracts, customer lists, or
3.14 similar items, must be attributed to the state in which the property is used by the purchaser.
3.15 If the property is used in more than one state, the royalties or other income must be
3.16 apportioned to this state pro rata according to the portion of use in this state. If the portion
3.17 of use in this state cannot be determined, the royalties or other income must be excluded
3.18 from both the numerator and the denominator. Intangible property is used in this state if the
3.19 purchaser uses the intangible property or the rights therein in the regular course of its business
3.20 operations in this state, regardless of the location of the purchaser's customers.

3.21 (i) Sales of intangible property are made within the state in which the property is used
3.22 by the purchaser. If the property is used in more than one state, the sales must be apportioned
3.23 to this state pro rata according to the portion of use in this state. If the portion of use in this
3.24 state cannot be determined, the sale must be excluded from both the numerator and the
3.25 denominator of the sales factor. Intangible property is used in this state if the purchaser used
3.26 the intangible property in the regular course of its business operations in this state.

3.27 (j) Receipts from the performance of services must be attributed to the state where the
3.28 services are received. For the purposes of this section, receipts from the performance of
3.29 services provided to a corporation, partnership, or trust may only be attributed to a state
3.30 where it has a fixed place of doing business. If the state where the services are received is
3.31 not readily determinable or is a state where the corporation, partnership, or trust receiving
3.32 the service does not have a fixed place of doing business, the services shall be deemed to
3.33 be received at the location of the office of the customer from which the services were ordered
3.34 in the regular course of the customer's trade or business. If the ordering office cannot be

4.1 determined, the services shall be deemed to be received at the office of the customer to
4.2 which the services are billed.

4.3 (k) For the purposes of this subdivision and subdivision 6, paragraph (l), receipts from
4.4 management, distribution, or administrative services performed by a corporation or trust
4.5 for a fund of a corporation or trust regulated under United States Code, title 15, sections
4.6 80a-1 through 80a-64, must be attributed to the state where the shareholder of the fund
4.7 resides. Under this paragraph, receipts for services attributed to shareholders are determined
4.8 on the basis of the ratio of: (1) the average of the outstanding shares in the fund owned by
4.9 shareholders residing within Minnesota at the beginning and end of each year; and (2) the
4.10 average of the total number of outstanding shares in the fund at the beginning and end of
4.11 each year. Residence of the shareholder, in the case of an individual, is determined by the
4.12 mailing address furnished by the shareholder to the fund. Residence of the shareholder,
4.13 when the shares are held by an insurance company as a depositor for the insurance company
4.14 policyholders, is the mailing address of the policyholders. In the case of an insurance
4.15 company holding the shares as a depositor for the insurance company policyholders, if the
4.16 mailing address of the policyholders cannot be determined by the taxpayer, the receipts
4.17 must be excluded from both the numerator and denominator. Residence of other shareholders
4.18 is the mailing address of the shareholder.

4.19 **EFFECTIVE DATE.** This section is effective for taxable years beginning after December
4.20 31, 2016.

4.21 **Sec. 2. TAXATION OF PARTNERSHIPS ELECTING ENTITY LEVEL**
4.22 **ASSESSMENT.**

4.23 (a) Notwithstanding any law to the contrary, a partnership electing to be subject to
4.24 taxation at the entity level under Code of Federal Regulations, title 26, section 301.9100-22T,
4.25 is liable for additional income and franchise taxes on the Minnesota portion of any imputed
4.26 underpayment assessed at the partnership level under section 6225 of the Internal Revenue
4.27 Code. The rate of tax assessed from the partnership shall be 9.8 percent.

4.28 (b) For the purposes of computing the imputed underpayment of the partnership under
4.29 paragraph (a), the Minnesota portion of an imputed underpayment attributable to a
4.30 nonresident is calculated by applying the income allocation ratios provided under Minnesota
4.31 Statutes, sections 290.17, 290.191, and 290.20, for the partnership's federally reviewed year,
4.32 to the amount of additional income underlying the imputed underpayment being assessed
4.33 in the federal adjustment year.

5.1 (c) For the purposes of computing the imputed underpayment of the partnership under
5.2 paragraph (a), the Minnesota portion of an imputed underpayment attributable to a Minnesota
5.3 resident is calculated by assigning 100 percent of the additional income underlying the
5.4 imputed underpayment to Minnesota for the partner's reviewed year.

5.5 (d) For the purposes of this section, "nonresident" means a nonresident individual,
5.6 corporation, partnership, or nonresident trust as defined by Minnesota Statutes, section
5.7 290.01.

5.8 (e) For the purposes of this section, "Minnesota resident" means resident individuals
5.9 and resident trusts as defined by Minnesota Statutes, section 290.01.

5.10 (f) Any partner in a partnership that is liable for tax under paragraph (a), who was a
5.11 resident of Minnesota during a federally reviewed year, may file an amended Minnesota
5.12 income tax return reflecting the adjustment to the partnership's reviewed year return and
5.13 may claim a credit for taxes paid to another state pursuant to, but also subject to the
5.14 limitations in, Minnesota Statutes, section 290.06, subdivision 22.

5.15 (g) Penalties and interest under Minnesota Statutes, chapter 289A, apply to the Minnesota
5.16 portion of imputed underpayments assessed to partnerships as though the payment of tax
5.17 was due from the partnership on the date that the partnership's tax return was due to the
5.18 state in the reviewed year without extension.

5.19 (h) To the extent that any person or entity other than the partnership electing the
5.20 application of Code of Federal Regulations, title 26, section 301.9100-22T, becomes liable
5.21 for an imputed underpayment of tax, that person or entity is also liable for the Minnesota
5.22 portion of the imputed underpayment and must file an amended Minnesota income tax
5.23 return for the federally reviewed year reflecting the adjustment.

5.24 (i) The assessment of an imputed underpayment by the Internal Revenue Service or any
5.25 other competent federal authority is a change or correction for the purposes of Minnesota
5.26 Statutes, section 289A.38, subdivision 7. Partnerships liable for tax under paragraph (a)
5.27 must file and pay the tax consistent with Minnesota Statutes, section 289A.38, subdivision
5.28 7, and in a form and manner prescribed by the commissioner.

5.29 (j) For the purposes of this section, "Internal Revenue Code" means the Internal Revenue
5.30 Code of 1986, as amended through December 16, 2016, except that it shall also incorporate
5.31 changes to the Internal Revenue Code adopted as part of the Bipartisan Budget Act of 2015,
5.32 Public Law 114-74, to the extent that such changes are applicable because of an election
5.33 made by a taxpayer under section 1101(g)(4) of that law.

6.1 **EFFECTIVE DATE.** This section is effective retroactively and applies to taxpayers
 6.2 electing under paragraph (a) beginning after November 2, 2015, and before January 1, 2018.

6.3 **ARTICLE 2**

6.4 **PROPERTY TAX AND LOCAL GOVERNMENT AIDS**

6.5 Section 1. Minnesota Statutes 2016, section 270.074, subdivision 1, is amended to read:

6.6 Subdivision 1. **Valuation.** The commissioner shall determine the market valuation of
 6.7 all flight property operated or used by every airline company in air commerce in this state.
 6.8 The valuation apportioned to this state of such flight property shall be the proportion of the
 6.9 total valuation thereof determined on the basis of the total of the following percentages:

6.10 ~~(1) 33-1/3 percent of the percentage which the total tonnage of passengers, express and~~
 6.11 ~~freight first received by the airline company in this state during the preceding calendar year~~
 6.12 ~~plus the total tonnage of passengers, express and freight finally discharged by it within this~~
 6.13 ~~state during the preceding calendar year is of the total of such tonnage first received by the~~
 6.14 ~~airline company or finally discharged by it, within and without this state during the preceding~~
 6.15 ~~calendar year.~~

6.16 ~~(2) 33-1/3 percent of the percentage which, in equated plane hours, the total time of all~~
 6.17 ~~aircraft of the airline company in flight in this state during the preceding calendar year, is~~
 6.18 ~~of the total of such time in flight within and without this state during the preceding calendar~~
 6.19 ~~year.~~

6.20 ~~(3) 33-1/3~~ (1) 50 percent of the percentage which the number of revenue ton miles of
 6.21 passengers, mail, express and freight flown by the airline company within this state during
 6.22 the preceding calendar year is of the total number of such miles flown by it within and
 6.23 without this state during the preceding calendar year.

6.24 (2) 50 percent of the percentage that the total departures performed by the airline company
 6.25 within this state during the preceding calendar year is of the total departures performed
 6.26 within and without this state during the preceding calendar year.

6.27 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

6.28 Sec. 2. Minnesota Statutes 2016, section 272.025, subdivision 1, is amended to read:

6.29 Subdivision 1. **Statement of exemption.** (a) Except in the case of property owned by
 6.30 the state of Minnesota or any political subdivision thereof, ~~and property exempt from taxation~~
 6.31 ~~under section 272.02, subdivisions 9, 10, 13, 15, 18, 20, and 22 to 25, and at the times~~
 6.32 ~~provided in subdivision 3,~~ the commissioner of revenue may require that a taxpayer claiming

7.1 an exemption from taxation on property described in section 272.02, ~~subdivisions 2 to 33,~~
 7.2 ~~must~~ file a statement of exemption with the assessor of the assessment district in which the
 7.3 property is located. By February 1, 2018, and by February 1 of each third year thereafter,
 7.4 the commissioner of revenue shall publish on its Web site a list of the exemptions for which
 7.5 a taxpayer claiming an exemption must file a statement of exemption. The commissioner's
 7.6 requirement that a taxpayer file a statement of exemption pursuant to this subdivision shall
 7.7 not be considered a rule and is not subject to the Administrative Procedure Act, chapter 14.

7.8 (b) A taxpayer claiming an exemption from taxation on property described in section
 7.9 272.02, subdivision 10, must file a statement of exemption with the commissioner of revenue,
 7.10 on or before February 15 of each year for which the taxpayer claims an exemption.

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

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

7.16 **EFFECTIVE DATE.** This section is effective for applications for exemption submitted
 7.17 in 2018 and thereafter.

7.18 Sec. 3. Minnesota Statutes 2016, section 272.0295, is amended by adding a subdivision
 7.19 to read:

7.20 Subd. 8. **Extension.** The commissioner may, for good cause, extend the time for filing
 7.21 the report required by subdivision 4. The extension must not exceed 15 days.

7.22 **EFFECTIVE DATE.** This section is effective for reports filed in 2018 and thereafter.

7.23 Sec. 4. Minnesota Statutes 2016, section 272.115, subdivision 1, is amended to read:

7.24 Subdivision 1. **Requirement.** Except as otherwise provided in subdivision 5 or 6,
 7.25 whenever any real estate is sold for a consideration in excess of \$1,000 an amount set by
 7.26 the commissioner of revenue, whether by warranty deed, quitclaim deed, contract for deed
 7.27 or any other method of sale, the grantor, grantee or the legal agent of either shall file a
 7.28 certificate of value with the county auditor in the county in which the property is located
 7.29 when the deed or other document is presented for recording. Contract for deeds are subject
 7.30 to recording under section 507.235, subdivision 1. Value shall, in the case of any deed not
 7.31 a gift, be the amount of the full actual consideration thereof, paid or to be paid, including
 7.32 the amount of any lien or liens assumed. The items and value of personal property transferred

8.1 with the real property must be listed and deducted from the sale price. The certificate of
8.2 value shall include the classification to which the property belongs for the purpose of
8.3 determining the fair market value of the property, and shall include any proposed change
8.4 in use of the property known to the person filing the certificate that could change the
8.5 classification of the property. The certificate shall include financing terms and conditions
8.6 of the sale which are necessary to determine the actual, present value of the sale price for
8.7 purposes of the sales ratio study. If the property is being acquired as part of a like-kind
8.8 exchange under section 1031 of the Internal Revenue Code of 1986, as amended through
8.9 December 31, 2006, that must be indicated on the certificate. The commissioner of revenue
8.10 shall promulgate administrative rules specifying the financing terms and conditions which
8.11 must be included on the certificate. The certificate of value must include the Social Security
8.12 number or the federal employer identification number of the grantors and grantees. However,
8.13 a married person who is not an owner of record and who is signing a conveyance instrument
8.14 along with the person's spouse solely to release and convey their marital interest, if any, in
8.15 the real property being conveyed is not a grantor for the purpose of the preceding sentence.
8.16 A statement in the deed that is substantially in the following form is sufficient to allow the
8.17 county auditor to accept a certificate for filing without the Social Security number of the
8.18 named spouse: "(Name) claims no ownership interest in the real property being conveyed
8.19 and is executing this instrument solely to release and convey a marital interest, if any, in
8.20 that real property." The identification numbers of the grantors and grantees are private data
8.21 on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12, but,
8.22 notwithstanding that section, the private or nonpublic data may be disclosed to the
8.23 commissioner of revenue for purposes of tax administration. The information required to
8.24 be shown on the certificate of value is limited to the information required as of the date of
8.25 the acknowledgment on the deed or other document to be recorded. The commissioner's
8.26 determination of the amount for which a certificate of value is required pursuant to this
8.27 subdivision shall not be considered a rule and is not subject to the Administrative Procedure
8.28 Act, chapter 14.

8.29 **EFFECTIVE DATE.** This section is effective for certificates of value filed after
8.30 December 31, 2017.

8.31 Sec. 5. Minnesota Statutes 2016, section 272.115, subdivision 2, is amended to read:

8.32 Subd. 2. **Form; information required.** The certificate of value shall require such facts
8.33 and information as may be determined by the commissioner to be reasonably necessary in
8.34 the administration of the state education aid formulas. The form of the certificate of value

9.1 shall be prescribed by the Department of Revenue ~~which shall provide an adequate supply~~
 9.2 ~~of forms to each county auditor.~~

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

9.4 Sec. 6. Minnesota Statutes 2016, section 272.115, subdivision 3, is amended to read:

9.5 Subd. 3. **Copies transmitted; homestead status.** The county auditor shall transmit ~~two~~
 9.6 ~~true copies~~ of the certificate of value to the assessor who shall insert into the certificate of
 9.7 value the most recent market value and when available, the year of original construction of
 9.8 each parcel of property ~~on both copies,~~ and shall transmit ~~one copy~~ the certificate of value
 9.9 to the Department of Revenue. Upon the request of a city council located within the county,
 9.10 a copy of each certificate of value for property located in that city shall be made available
 9.11 to the governing body of the city. The assessor shall remove the homestead classification
 9.12 for the following assessment year from a property which is sold or transferred, unless the
 9.13 grantee or the person to whom the property is transferred completes a homestead application
 9.14 under section 273.124, subdivision 13, and qualifies for homestead status.

9.15 **EFFECTIVE DATE.** This section is effective for certificates of value filed after
 9.16 December 31, 2017.

9.17 Sec. 7. Minnesota Statutes 2016, section 273.0755, is amended to read:

9.18 **273.0755 TRAINING AND EDUCATION OF PROPERTY TAX PERSONNEL.**

9.19 (a) Beginning with the four-year period starting on July 1, 2000, every person licensed
 9.20 by the state Board of Assessors at the Accredited Minnesota Assessor level or higher, shall
 9.21 successfully complete a weeklong Minnesota laws course sponsored by the Department of
 9.22 Revenue at least once in every four-year period. An assessor need not attend the course if
 9.23 they successfully pass the test for the course.

9.24 (b) The commissioner of revenue may require that each county, and each city for which
 9.25 the city assessor performs the duties of county assessor, have (i) a person on the assessor's
 9.26 staff who is certified by the Department of Revenue in sales ratio calculations, (ii) an officer
 9.27 or employee who is certified by the Department of Revenue in tax calculations, and (iii) an
 9.28 officer or employee who is certified by the Department of Revenue in the proper preparation
 9.29 of abstracts of assessment. The commissioner of revenue may require that each county have
 9.30 an officer or employee who is certified by the Department of Revenue in the proper
 9.31 preparation of abstracts of tax lists.

10.1 (c) Beginning with the four-year educational licensing period starting on July 1, 2004,
10.2 every Minnesota assessor licensed by the State Board of Assessors must attend and participate
10.3 in a seminar that focuses on ethics, professional conduct and the need for standardized
10.4 assessment practices developed and presented by the commissioner of revenue. This
10.5 requirement must be met at least once in every subsequent four-year period. This requirement
10.6 applies to all assessors licensed for one year or more in the four-year period.

10.7 (d) The commissioner of revenue may require that at least one employee of any county
10.8 or city that performs functions related to property tax administration complete additional
10.9 training that the commissioner deems necessary to promote uniform and equitable
10.10 implementation of the property tax laws, as defined in section 270C.01, subdivision 7.

10.11 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

10.12 Sec. 8. Minnesota Statutes 2016, section 273.124, subdivision 13, is amended to read:

10.13 Subd. 13. **Homestead application.** (a) A person who meets the homestead requirements
10.14 under subdivision 1 must file a homestead application with the county assessor to initially
10.15 obtain homestead classification.

10.16 (b) The format and contents of a uniform homestead application shall be prescribed by
10.17 the commissioner of revenue. The application must clearly inform the taxpayer that this
10.18 application must be signed by all owners who occupy the property or by the qualifying
10.19 relative and returned to the county assessor in order for the property to receive homestead
10.20 treatment.

10.21 (c) Every property owner applying for homestead classification must furnish to the
10.22 county assessor the Social Security number of each occupant who is listed as an owner of
10.23 the property on the deed of record, the name and address of each owner who does not occupy
10.24 the property, and the name and Social Security number of each owner's spouse ~~who occupies~~
10.25 ~~the property~~. The application must be signed by each owner who occupies the property and
10.26 by each owner's spouse who occupies the property, or, in the case of property that qualifies
10.27 as a homestead under subdivision 1, paragraph (c), by the qualifying relative.

10.28 If a property owner occupies a homestead, the property owner's spouse may not claim
10.29 another property as a homestead unless the property owner and the property owner's spouse
10.30 file with the assessor an affidavit or other proof required by the assessor stating that the
10.31 property qualifies as a homestead under subdivision 1, paragraph (e).

10.32 Owners or spouses occupying residences owned by their spouses and previously occupied
10.33 with the other spouse, either of whom fail to include the other spouse's name and Social

11.1 Security number on the homestead application or provide the affidavits or other proof
11.2 requested, will be deemed to have elected to receive only partial homestead treatment of
11.3 their residence. The remainder of the residence will be classified as nonhomestead residential.
11.4 When an owner or spouse's name and Social Security number appear on homestead
11.5 applications for two separate residences and only one application is signed, the owner or
11.6 spouse will be deemed to have elected to homestead the residence for which the application
11.7 was signed.

11.8 (d) If residential real estate is occupied and used for purposes of a homestead by a relative
11.9 of the owner and qualifies for a homestead under subdivision 1, paragraph (c), in order for
11.10 the property to receive homestead status, a homestead application must be filed with the
11.11 assessor. The Social Security number of each relative occupying the property and the name
11.12 and Social Security number of the spouse of a relative occupying the property shall be
11.13 required on the homestead application filed under this subdivision. If a different relative of
11.14 the owner subsequently occupies the property, the owner of the property must notify the
11.15 assessor within 30 days of the change in occupancy. The Social Security number of a relative
11.16 occupying the property or relative's the spouse of a relative occupying the property is private
11.17 data on individuals as defined by section 13.02, subdivision 12, but may be disclosed to the
11.18 commissioner of revenue, or, for the purposes of proceeding under the Revenue Recapture
11.19 Act to recover personal property taxes owing, to the county treasurer.

11.20 (e) The homestead application shall also notify the property owners that if the property
11.21 is granted homestead status for any assessment year, that same property shall remain
11.22 classified as homestead until the property is sold or transferred to another person, or the
11.23 owners, the spouse of the owner, or the relatives no longer use the property as their
11.24 homestead. Upon the sale or transfer of the homestead property, a certificate of value must
11.25 be timely filed with the county auditor as provided under section 272.115. Failure to notify
11.26 the assessor within 30 days that the property has been sold, transferred, or that the owner,
11.27 the spouse of the owner, or the relative is no longer occupying the property as a homestead,
11.28 shall result in the penalty provided under this subdivision and the property will lose its
11.29 current homestead status.

11.30 (f) If a homestead application has not been filed with the county by December 15, the
11.31 assessor shall classify the property as nonhomestead for the current assessment year for
11.32 taxes payable in the following year, provided that the owner may be entitled to receive the
11.33 homestead classification by proper application under section 375.192.

11.34 **EFFECTIVE DATE.** This section is effective for applications for homestead filed in
11.35 2018 and thereafter.

12.1 Sec. 9. Minnesota Statutes 2016, section 273.124, subdivision 13d, is amended to read:

12.2 Subd. 13d. **Homestead data.** On or before April 30 each year beginning in 2007, each
12.3 county must provide the commissioner with the following data for each parcel of homestead
12.4 property by electronic means as defined in section 289A.02, subdivision 8:

12.5 (1) the property identification number assigned to the parcel for purposes of taxes payable
12.6 in the current year;

12.7 (2) the name and Social Security number of each occupant of homestead property who
12.8 is the property owner, ~~property owner's spouse, or~~ qualifying relative of a property owner,
12.9 and the spouse of the property owner who occupies homestead property or spouse of a
12.10 qualifying relative of a property owner who occupies homestead property;

12.11 (3) the classification of the property under section 273.13 for taxes payable in the current
12.12 year and in the prior year;

12.13 (4) an indication of whether the property was classified as a homestead for taxes payable
12.14 in the current year because of occupancy by a relative of the owner or by a spouse of a
12.15 relative;

12.16 (5) the property taxes payable as defined in section 290A.03, subdivision 13, for the
12.17 current year and the prior year;

12.18 (6) the market value of improvements to the property first assessed for tax purposes for
12.19 taxes payable in the current year;

12.20 (7) the assessor's estimated market value assigned to the property for taxes payable in
12.21 the current year and the prior year;

12.22 (8) the taxable market value assigned to the property for taxes payable in the current
12.23 year and the prior year;

12.24 (9) whether there are delinquent property taxes owing on the homestead;

12.25 (10) the unique taxing district in which the property is located; and

12.26 (11) such other information as the commissioner decides is necessary.

12.27 The commissioner shall use the information provided on the lists as appropriate under
12.28 the law, including for the detection of improper claims by owners, or relatives of owners,
12.29 under chapter 290A.

12.30 **EFFECTIVE DATE.** This section is effective for applications for homestead filed in
12.31 2018 and thereafter.

13.1 Sec. 10. Minnesota Statutes 2016, section 273.21, is amended to read:

13.2 **273.21 NEGLECT BY AUDITOR OR ASSESSOR; PENALTY.**

13.3 Every county auditor ~~and or treasurer, every town or district~~ county or local assessor,
 13.4 every member of a county board of commissioners, and every member of a local or county
 13.5 board of appeal and equalization who in any case refuses or knowingly ~~neglects~~ fails to
 13.6 perform any duty ~~enjoined by this chapter, or who consents to or connives at any evasion~~
 13.7 ~~of its provisions whereby any proceeding required by this chapter is prevented or hindered,~~
 13.8 prescribed by the property tax laws, as defined by section 270C.01, subdivision 7, or whereby
 13.9 any property required to be listed for taxation is unlawfully exempted, or entered on the tax
 13.10 list at less than its market value, shall, for every such ~~neglect, failure or refusal, consent, or~~
 13.11 ~~connivance,~~ forfeit and pay to the state not less than \$200, nor more than \$1,000, to be
 13.12 recovered by the commissioner in any court of competent jurisdiction.

13.13 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

13.14 Sec. 11. Minnesota Statutes 2016, section 274.014, subdivision 3, is amended to read:

13.15 Subd. 3. **Proof of compliance; transfer of duties.** (a) Any city or town that conducts
 13.16 local boards of appeal and equalization meetings must ~~provide proof to the county assessor~~
 13.17 ~~by February 1 that it is in compliance~~ comply with the training requirements of subdivision
 13.18 2 by February 1, by having at least one member who has attended an appeals and equalization
 13.19 course described in subdivision 2 within the last four years. ~~This notice must also verify~~
 13.20 ~~that there was a quorum of voting members at each meeting of the board of appeal and~~
 13.21 ~~equalization in the previous year.~~ A city or town that does not comply with these requirements
 13.22 is deemed to have transferred its board of appeal and equalization powers to the county for
 13.23 a minimum of two assessment years, beginning with the current year's assessment and
 13.24 continuing thereafter unless the powers are reinstated under paragraph (c).

13.25 (b) The county shall notify the taxpayers when the board of appeal and equalization for
 13.26 a city or town has been transferred to the county under this subdivision and, prior to the
 13.27 meeting time of the county board of equalization, the county shall make available to those
 13.28 taxpayers a procedure for a review of the assessments, including, but not limited to, open
 13.29 book meetings. This alternate review process shall take place in April and May.

13.30 (c) A local board whose powers are transferred to the county under this subdivision may
 13.31 be reinstated by resolution of the governing body of the city or town and upon proof of
 13.32 compliance with the requirements of subdivision 2. The resolution and proofs must be

14.1 provided to the county assessor by February 1 in order to be effective for the following
14.2 year's assessment.

14.3 (d) A local board whose powers are transferred to the county under this subdivision may
14.4 continue to employ a local assessor and is not deemed to have transferred its powers to
14.5 make assessments.

14.6 **EFFECTIVE DATE.** This section is effective for board of appeal and equalization
14.7 meetings held in 2018 and thereafter.

14.8 Sec. 12. Minnesota Statutes 2016, section 274.135, subdivision 3, is amended to read:

14.9 Subd. 3. **Proof of compliance; transfer of duties.** (a) Any county that conducts county
14.10 boards of appeal and equalization meetings must ~~provide proof to the commissioner by~~
14.11 ~~December 1, 2009, and each year thereafter, that it is in compliance~~ comply with the training
14.12 requirements of subdivision 2 by February 1, by having at least one member who has attended
14.13 an appeals and equalization course described in subdivision 2 within the last four years.
14.14 ~~Beginning in 2009, this notice must also verify that there was a quorum of voting members~~
14.15 ~~at each meeting of the board of appeal and equalization in the current year.~~ A county that
14.16 does not comply with these requirements is deemed to have transferred its board of appeal
14.17 and equalization powers to the special board of equalization appointed pursuant to section
14.18 274.13, subdivision 2, for a minimum of two assessment years, beginning with the following
14.19 year's assessment and continuing thereafter unless the powers are reinstated under paragraph
14.20 (c). A county that does not comply with the requirements of subdivision 2 and has not
14.21 appointed a special board of equalization shall appoint a special board of equalization before
14.22 the following year's assessment.

14.23 (b) The county shall notify the taxpayers when the board of appeal and equalization for
14.24 a county has been transferred to the special board of equalization under this subdivision
14.25 and, prior to the meeting time of the special board of equalization, the county shall make
14.26 available to those taxpayers a procedure for a review of the assessments, including, but not
14.27 limited to, open book meetings. This alternate review process must take place in April and
14.28 May.

14.29 (c) A county board whose powers are transferred to the special board of equalization
14.30 under this subdivision may be reinstated by resolution of the county board and upon proof
14.31 of compliance with the requirements of subdivision 2. The resolution and proofs must be
14.32 provided to the commissioner by December 1 in order to be effective for the following
14.33 year's assessment.

15.1 (d) If a person who was entitled to appeal to the county board of appeal and equalization
15.2 or to the county special board of equalization is not able to do so in a particular year because
15.3 the county board or special board did not meet the quorum and training requirements in this
15.4 section and section 274.13, or because the special board was not appointed, that person may
15.5 instead appeal to the commissioner of revenue, provided that the appeal is received by the
15.6 commissioner prior to August 1. The appeal is not subject to either chapter 14 or section
15.7 270C.92. The commissioner must issue an appropriate order to the county assessor in
15.8 response to each timely appeal, either upholding or changing the valuation or classification
15.9 of the property. Prior to October 1 of each year, the commissioner must charge and bill the
15.10 county where the property is located \$500 for each tax parcel covered by an order issued
15.11 under this paragraph in that year. Amounts received by the commissioner under this paragraph
15.12 must be deposited in the state's general fund. If payment of a billed amount is not received
15.13 by the commissioner before December 1 of the year when billed, the commissioner must
15.14 deduct that unpaid amount from any state aid the commissioner would otherwise pay to the
15.15 county under chapter 477A in the next year. Late payments may either be returned to the
15.16 county uncashed and undeposited or may be accepted. If a late payment is accepted, the
15.17 state aid paid to the county under chapter 477A must be adjusted within 12 months to
15.18 eliminate any reduction that occurred because the payment was late. Amounts needed to
15.19 make these adjustments are included in the appropriation under section 477A.03, subdivision
15.20 2.

15.21 **EFFECTIVE DATE.** This section is effective for board of appeal and equalization
15.22 meetings held in 2018 and thereafter.

15.23 Sec. 13. Minnesota Statutes 2016, section 477A.0124, is amended by adding a subdivision
15.24 to read:

15.25 Subd. 7. **County aid calculations.** Data used in calculating aids to counties under this
15.26 section shall be the most recently available data as of January 1 in the year in which the aid
15.27 is calculated.

15.28 **EFFECTIVE DATE.** This section is effective beginning with aid payable in 2018.

15.29 Sec. 14. **REPEALER.**

15.30 Minnesota Statutes 2016, section 270.074, subdivision 2, is repealed.

15.31 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

16.1

ARTICLE 3

16.2

SALES AND USE, AND SPECIAL TAXES

16.3 Section 1. Minnesota Statutes 2016, section 84.82, subdivision 10, is amended to read:

16.4 Subd. 10. **Proof of sales tax payment; collection and refund.** (a) A person applying
 16.5 for initial registration of a snowmobile must provide a ~~snowmobile purchaser's certificate,~~
 16.6 ~~showing a complete description of the snowmobile, the seller's name and address, the full~~
 16.7 ~~purchase price of the snowmobile, and the trade-in allowance, if any. The certificate must~~
 16.8 ~~include information showing either~~ receipt, invoice, or other document to prove that:

16.9 (1) ~~that the sales and use tax under chapter 297A was paid or;~~

16.10 (2) ~~the purchase was exempt from tax under chapter 297A. The commissioner of public~~
 16.11 ~~safety, in consultation with the commissioner and the commissioner of revenue, shall~~
 16.12 ~~prescribe the form of the certificate. The certificate is not required if the applicant provides~~
 16.13 ~~a receipt, invoice, or other document that shows; or~~

16.14 (3) the snowmobile was purchased from a retailer that is maintaining a place of business
 16.15 in this state as defined in section 297A.66, subdivision 1, and is a dealer.

16.16 (b) The commissioner or authorized deputy registrars, acting as agents of the
 16.17 commissioner of revenue under an agreement between the commissioner and the
 16.18 commissioner of revenue, as provided in section 297A.825:

16.19 (1) must collect use tax from the applicant if the applicant does not provide the proof
 16.20 required under paragraph (a); and

16.21 (2) are authorized to issue refunds of use tax paid to them in error.

16.22 (c) Subdivision 11 does not apply to refunds under this subdivision.

16.23 **EFFECTIVE DATE.** This section is effective for snowmobiles registered after June
 16.24 30, 2017.

16.25 Sec. 2. Minnesota Statutes 2016, section 84.922, subdivision 11, is amended to read:

16.26 Subd. 11. **Proof of sales tax payment; collection and refund.** (a) A person applying
 16.27 for initial registration in Minnesota of an all-terrain vehicle ~~shall~~ must provide a ~~purchaser's~~
 16.28 ~~certificate showing a complete description of the all-terrain vehicle, the seller's name and~~
 16.29 ~~address, the full purchase price of the all-terrain vehicle, and the trade-in allowance, if any.~~
 16.30 ~~The certificate also must include information showing either~~ receipt, invoice, or other
 16.31 document to prove that:

- 17.1 (1) the sales and use tax under chapter 297A was paid ~~or~~;
- 17.2 (2) the purchase was exempt from tax under chapter 297A. ~~The certificate is not required~~
 17.3 ~~if the applicant provides a receipt, invoice, or other document that shows; or~~
- 17.4 (3) the all-terrain vehicle was purchased from a retailer that is maintaining a place of
 17.5 business in this state as defined in section 297A.66, subdivision 1, and is a dealer.
- 17.6 (b) The commissioner or authorized deputy registrars, acting as agents of the
 17.7 commissioner of revenue under an agreement between the commissioner and the
 17.8 commissioner of revenue, as provided in section 297A.825:
- 17.9 (1) must collect use tax from the applicant if the applicant does not provide the proof
 17.10 required under paragraph (a); and
- 17.11 (2) are authorized to issue refunds of use tax paid to them in error.
- 17.12 (c) Subdivision 12 does not apply to refunds under this subdivision.
- 17.13 **EFFECTIVE DATE.** This section is effective for all-terrain vehicles registered after
 17.14 June 30, 2017.

17.15 Sec. 3. Minnesota Statutes 2016, section 86B.401, subdivision 12, is amended to read:

17.16 Subd. 12. **Proof of sales tax payment; collection and refund.** (a) A person applying
 17.17 for initial licensing of a watercraft must provide a ~~watercraft purchaser's certificate, showing~~
 17.18 ~~a complete description of the watercraft, the seller's name and address, the full purchase~~
 17.19 ~~price of the watercraft, and the trade-in allowance, if any. The certificate must include~~
 17.20 ~~information showing either~~ receipt, invoice, or other document to prove that:

- 17.21 (1) ~~that~~ the sales and use tax under chapter 297A was paid ~~or~~;
- 17.22 (2) the purchase was exempt from tax under chapter 297A. ~~The commissioner of public~~
 17.23 ~~safety, in consultation with the commissioner and the commissioner of revenue, shall~~
 17.24 ~~prescribe the form of the certificate. The certificate is not required if the applicant provides~~
 17.25 ~~a receipt, invoice, or other document that shows; or~~
- 17.26 (3) the watercraft was purchased from a retailer that is maintaining a place of business
 17.27 in this state as defined in section 297A.66, subdivision 1, and is a dealer.
- 17.28 (b) The commissioner or authorized deputy registrars, acting as agents of the
 17.29 commissioner of revenue under an agreement between the commissioner and the
 17.30 commissioner of revenue, as provided in section 297A.825:

18.1 (1) must collect use tax from the applicant if the applicant does not provide the proof
 18.2 required under paragraph (a); and

18.3 (2) are authorized to issue refunds of use tax paid to them in error.

18.4 (c) Section 86B.415, subdivision 11, does not apply to refunds under this subdivision.

18.5 **EFFECTIVE DATE.** This section is effective for watercraft licensed after June 30,
 18.6 2017.

18.7 Sec. 4. Minnesota Statutes 2016, section 270B.14, is amended by adding a subdivision to
 18.8 read:

18.9 **Subd. 20. Department of Natural Resources; authorized deputy registrars of motor**
 18.10 **vehicles.** The commissioner may disclose return information related to the taxes imposed
 18.11 by chapter 297A to the Department of Natural Resources or an authorized deputy registrar
 18.12 of motor vehicles only:

18.13 (1) if the commissioner has an agreement with the commissioner of natural resources
 18.14 under section 297A.825, subdivision 1; and

18.15 (2) to the extent necessary for the Department of Natural Resources or an authorized
 18.16 deputy registrar of motor vehicles to verify that the applicable sales or use tax has been paid
 18.17 or that a sales tax exemption applies, and to otherwise administer sections 84.82, subdivision
 18.18 10; 84.922, subdivision 11; 86B.401, subdivision 12; and 297A.825.

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

18.20 Sec. 5. Minnesota Statutes 2016, section 270B.14, is amended by adding a subdivision to
 18.21 read:

18.22 **Subd. 21. Department of Transportation.** The commissioner may disclose return
 18.23 information related to the taxes imposed by chapter 297A to the Department of Transportation
 18.24 only:

18.25 (1) if the commissioner has an agreement with the commissioner of transportation under
 18.26 section 297A.82, subdivision 7; and

18.27 (2) to the extent necessary for the Department of Transportation to verify that the
 18.28 applicable sales or use tax has been paid or that a sales tax exemption applies on the lease,
 18.29 purchase, or sale of an aircraft by an individual or business who owns and operates the
 18.30 aircraft that must be registered or licensed in Minnesota, and to otherwise administer sections
 18.31 297A.82 and 360.018.

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

19.2 Sec. 6. Minnesota Statutes 2016, section 272.03, subdivision 1, is amended to read:

19.3 Subdivision 1. **Real property.** (a) For the purposes of taxation, but not for chapter 297A,
19.4 "real property" includes the land itself, rails, ties, and other track materials annexed to the
19.5 land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge
19.6 companies, and all rights and privileges belonging or appertaining to the land, and all mines,
19.7 iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under
19.8 it.

19.9 (b) A building or structure shall include the building or structure itself, together with all
19.10 improvements or fixtures annexed to the building or structure, which are integrated with
19.11 and of permanent benefit to the building or structure, regardless of the present use of the
19.12 building, and which cannot be removed without substantial damage to itself or to the building
19.13 or structure.

19.14 (c)(i) Real property does not include tools, implements, machinery, and equipment
19.15 attached to or installed in real property for use in the business or production activity
19.16 conducted thereon, regardless of size, weight or method of attachment, and mine shafts,
19.17 tunnels, and other underground openings used to extract ores and minerals taxed under
19.18 chapter 298 together with steel, concrete, and other materials used to support such openings.

19.19 (ii) The exclusion provided in clause (i) shall not apply to machinery and equipment
19.20 includable as real estate by paragraphs (a) and (b) even though such machinery and equipment
19.21 is used in the business or production activity conducted on the real property if and to the
19.22 extent such business or production activity consists of furnishing services or products to
19.23 other buildings or structures which are subject to taxation under this chapter.

19.24 (iii) The exclusion provided in clause (i) does not apply to the exterior shell of a structure
19.25 which constitutes walls, ceilings, roofs, or floors if the shell of the structure has structural,
19.26 insulation, or temperature control functions or provides protection from the elements, unless
19.27 the structure is primarily used in the production of biofuels, wine, beer, distilled beverages,
19.28 or dairy products. Such an exterior shell is included in the definition of real property even
19.29 if it also has special functions distinct from that of a building, or if such an exterior shell is
19.30 primarily used for the storage of ingredients or materials used in the production of biofuels,
19.31 wine, beer, distilled beverages, or dairy products, or for the storage of finished biofuels,
19.32 wine, beer, distilled beverages, or dairy products.

20.1 (d) The term real property does not include tools, implements, machinery, equipment,
 20.2 poles, lines, cables, wires, conduit, and station connections which are part of a telephone
 20.3 communications system, regardless of attachment to or installation in real property and
 20.4 regardless of size, weight, or method of attachment or installation.

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

20.6 Sec. 7. Minnesota Statutes 2016, section 289A.50, subdivision 2a, is amended to read:

20.7 Subd. 2a. **Refund of sales tax to purchasers.** (a) If a vendor has collected from a
 20.8 purchaser a tax on a transaction that is not subject to the tax imposed by chapter 297A, the
 20.9 purchaser may apply directly to the commissioner for a refund under this section if:

20.10 (1) the purchaser is currently registered or was registered during the period of the claim,
 20.11 to collect and remit the sales tax or to remit the use tax; and

20.12 (2) either

20.13 (i) the amount of the refund to be applied for exceeds \$500, or

20.14 (ii) the amount of the refund to be applied for does not exceed \$500, but the purchaser
 20.15 also applies for a capital equipment claim at the same time, and the total of the two refunds
 20.16 exceeds \$500.

20.17 (b) The purchaser may not file more than two applications for refund under this
 20.18 subdivision in a calendar year.

20.19 (c) Refunds shall not be issued for sales for resale where the vendor has a published no
 20.20 resale policy.

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

20.22 Sec. 8. Minnesota Statutes 2016, section 296A.01, subdivision 7, is amended to read:

20.23 Subd. 7. **Aviation gasoline.** "Aviation gasoline" means any gasoline that is ~~capable of~~
 20.24 ~~use for the purpose of producing or generating~~ used to produce or generate power for
 20.25 propelling internal combustion engine aircraft, ~~that meets the specifications in ASTM~~
 20.26 ~~specification D910-11, and that either:~~

20.27 ~~(1) is~~ Aviation gasoline includes any such gasoline invoiced and billed by a producer,
 20.28 manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or
 20.29 consumer, or by a dealer to consumer, as "aviation gasoline"; ~~or~~ that meets specifications
 20.30 in ASTM specification D910-16 or any other ASTM specification as gasoline appropriate
 20.31 for use in producing or generating power for propelling internal combustion engine aircraft.

21.1 ~~(2) whether or not invoiced and billed as provided in clause (1), is received, sold, stored,~~
 21.2 ~~or withdrawn from storage by any person, to be used for the purpose of producing or~~
 21.3 ~~generating power for propelling internal combustion engine aircraft.~~

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

21.5 Sec. 9. Minnesota Statutes 2016, section 297A.61, is amended by adding a subdivision to
 21.6 read:

21.7 Subd. 58. **Real property.** (a) "Real property" includes:

21.8 (1) the land itself;

21.9 (2) buildings and structures constructed or erected on the land and intended to be
 21.10 permanent; and

21.11 (3) improvements and non-trade fixtures incorporated into and intended to be of a
 21.12 permanent benefit to a building or structure, that cannot be removed without causing
 21.13 substantial damage to the building or structure.

21.14 (b) Real property includes but is not limited to: roads, light rail tracks and stations,
 21.15 railroad tracks, bridges, grain elevators, and storage structures such as tanks, bins, and silos.

21.16 (c) Real property does not include any of the following if used in a business or production
 21.17 activity conducted thereon, regardless of size, weight, or method of incorporation into the
 21.18 real property:

21.19 (1) trade fixtures including: tools, implements, machinery, and equipment; and

21.20 (2) signs or billboards.

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

21.22 Sec. 10. **[297A.825] SNOWMOBILES; ALL-TERRAIN VEHICLES;**

21.23 **WATERCRAFT; PAYMENT OF TAXES; REFUNDS.**

21.24 Subdivision 1. **Agreement with commissioners of natural resources and public**
 21.25 **safety; collection and refunds.** The commissioner may enter into an agreement with the
 21.26 commissioner of natural resources, in consultation with the commissioner of public safety,
 21.27 that provides that:

21.28 (1) the commissioner of natural resources and authorized deputy registrars of motor
 21.29 vehicles must collect use tax on snowmobiles, all-terrain vehicles, and watercraft from

22.1 persons applying for initial registration or license of the item unless the applicant provides
 22.2 a receipt, invoice, or other document to prove that:

22.3 (i) sales tax was paid on the purchase;

22.4 (ii) the purchase was exempt under this chapter;

22.5 (iii) use tax was paid to the commissioner in a form prescribed by the commissioner; or

22.6 (iv) the item was purchased from a retailer that is maintaining a place of business in this
 22.7 state as defined in section 297A.66, subdivision 1, and is a dealer as defined in section
 22.8 84.81, subdivision 10; 84.92, subdivision 3; or 86B.005, subdivision 4; and

22.9 (2) the commissioner of natural resources and authorized deputy registrars of motor
 22.10 vehicles are authorized to issue refunds of use tax paid to them in error, meaning that either
 22.11 the sales or use tax had already been paid or that the purchase was exempt from tax under
 22.12 this chapter.

22.13 Subd. 2. **Agents.** For the purposes of collecting or refunding the tax under this section,
 22.14 the commissioner of natural resources and authorized deputy registrars of motor vehicles
 22.15 are the agents of the commissioner and are subject to, and must strictly comply with, all
 22.16 rules consistent with this chapter prescribed by the commissioner.

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

22.18 Sec. 11. Minnesota Statutes 2016, section 297B.07, is amended to read:

22.19 **297B.07 PRESUMPTIONS.**

22.20 Subdivision 1. **Presumption; sale and registration.** For the purpose of the proper
 22.21 administration of ~~Laws 1971, chapter 853~~ this chapter, and to prevent evasion of the tax,
 22.22 the following presumptions shall apply:

22.23 (a) Evidence that a motor vehicle was sold for delivery in this state shall be prima facie
 22.24 evidence that it was sold for use in this state.

22.25 (b) When an application for registration plates for a motor vehicle is received by the
 22.26 motor vehicle registrar within 30 days of the date it was purchased or acquired by the
 22.27 purchaser, it shall be presumed, until the contrary is shown by the purchaser, that it was
 22.28 purchased or acquired for use in this state. This presumption shall apply whether or not such
 22.29 vehicle was previously titled or registered in another state.

22.30 Subd. 2. **Presumption; ownership.** (a) When a business entity not organized under the
 22.31 laws of this state owns a motor vehicle that is under the control of a Minnesota resident, it

23.1 is presumed that the Minnesota resident is the owner of the motor vehicle if two or more
 23.2 of the following are true:

23.3 (1) the business entity lacks a specific business activity or purpose other than the
 23.4 avoidance of tax;

23.5 (2) the business entity maintains no physical location in the jurisdiction where it is
 23.6 organized;

23.7 (3) the business entity earns de minimis or no revenue;

23.8 (4) the business entity maintains minimal or no business records;

23.9 (5) the business entity fails to employ individual persons and provide those persons with
 23.10 federal income tax W-2 wage and tax statements; or

23.11 (6) the business entity fails to file federal income tax returns or fails to file a required
 23.12 state tax return where it is organized.

23.13 (b) For purposes of this subdivision, a motor vehicle is under the control of a Minnesota
 23.14 resident if the Minnesota resident:

23.15 (1) is a partner, member, or shareholder of the business entity;

23.16 (2) is insured to drive the vehicle; and

23.17 (3) operates or stores the vehicle in Minnesota for any period of time.

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

23.19 Sec. 12. Minnesota Statutes 2016, section 297I.30, subdivision 7, is amended to read:

23.20 Subd. 7. **Surcharge.** ~~(a) By April 30 of each year, every company required to pay the~~
 23.21 ~~surcharge under section 297I.10, subdivision 1, shall file a return for the five-month period~~
 23.22 ~~ending March 31 in the form prescribed by the commissioner.~~

23.23 ~~(b)~~ (a) By June 30 of each year, every company required to pay the surcharge under
 23.24 section 297I.10, subdivision 1, shall file a return for the ~~two-month~~ seven-month period
 23.25 ending May 31 in the form prescribed by the commissioner.

23.26 ~~(c)~~ (b) By November 30 of each year, every company required to pay the surcharge
 23.27 under section 297I.10, subdivision 1, shall file a return for the five-month period ending
 23.28 October 31 in the form prescribed by the commissioner.

23.29 **EFFECTIVE DATE.** This section is effective for returns due after October 31, 2017.

24.1 Sec. 13. **REPEALER.**

24.2 Minnesota Rules, part 8125.1300, subpart 3, is repealed.

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

24.4 **ARTICLE 4**

24.5 **PAID PREPARERS**

24.6 Section 1. Minnesota Statutes 2016, section 270C.445, subdivision 2, is amended to read:

24.7 Subd. 2. **Definitions.** (a) For purposes of this section and sections 270C.4451 to
24.8 270C.447, the following terms have the meanings given.

24.9 (b) "Advertise" means to solicit business through any means or medium.

24.10 (c) "Client" means ~~an individual~~ a person for whom a tax preparer performs or agrees
24.11 to perform tax preparation services.

24.12 (d) "Facilitate" means to individually or in conjunction or cooperation with another
24.13 person:

24.14 (1) accept an application for a refund anticipation loan;

24.15 (2) pay to a client the proceeds, through direct deposit, a negotiable instrument, or any
24.16 other means, of a refund anticipation loan; or

24.17 (3) offer, arrange, process, provide, or in any other manner act to allow the making of,
24.18 a refund anticipation loan.

24.19 ~~(e) "Person" means an individual, corporation, partnership, limited liability company,~~
24.20 ~~association, trustee, or other legal entity.~~

24.21 ~~(f)~~ (e) "Refund anticipation check" means a negotiable instrument provided to a client
24.22 by the tax preparer or another person, which is issued from the proceeds of a taxpayer's
24.23 federal or state income tax refund or both and represents the net of the refund minus the tax
24.24 preparation fee and any other fees. A refund anticipation check includes a refund transfer.

24.25 ~~(g)~~ (f) "Refund anticipation loan" means a loan or any other extension of credit, whether
24.26 provided by the tax preparer or another entity such as a financial institution, in anticipation
24.27 of, and whose payment is secured by, a client's federal or state income tax refund or both.

24.28 ~~(h)~~ (g) "Tax preparation services" means services provided for a fee or other consideration
24.29 compensation to a client to:

24.30 (1) assist with preparing or filing ~~state or federal individual income tax returns~~ a return;

25.1 (2) assume final responsibility for completed work on ~~an individual income tax~~ a return
 25.2 on which preliminary work has been done by another; or

25.3 (3) sign or include on a return the preparer tax identification number required under
 25.4 section 6109(a)(4) of the Internal Revenue Code; or

25.5 ~~(3)~~ (4) facilitate the provision of a refund anticipation loans and loan or a refund
 25.6 anticipation checks check.

25.7 ~~(h)~~ (h) "Tax preparer" or "preparer" means a person providing tax preparation services
 25.8 subject to this section, except:

25.9 (1) an employee who prepares their employer's return;

25.10 (2) any fiduciary, or the regular employees of a fiduciary, while acting on behalf of the
 25.11 fiduciary estate, testator, trustor, grantor, or beneficiaries of them;

25.12 (3) nonprofit organizations providing tax preparation services under the Internal Revenue
 25.13 Service Volunteer Income Tax Assistance Program or Tax Counseling for the Elderly
 25.14 Program;

25.15 (4) a person who merely furnishes typing, reproducing, or other mechanical assistance;

25.16 (5) a third-party bulk filer as defined in section 290.92, subdivision 30, that is currently
 25.17 registered with the commissioner; and

25.18 (6) a certified service provider as defined in section 297A.995, subdivision 2, paragraph
 25.19 (c), that provides all of the sales tax functions for a retailer not maintaining a place of
 25.20 business in this state as described in section 297A.66.

25.21 (i) Except as otherwise provided, "return" means:

25.22 (1) a return as defined in section 270C.01, subdivision 8;

25.23 (2) a claim for refund of an overpayment;

25.24 (3) a claim filed pursuant to chapter 290A; and

25.25 (4) a claim for a credit filed under section 290.0677, subdivision 1.

25.26 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 25.27 31, 2017.

25.28 Sec. 2. Minnesota Statutes 2016, section 270C.445, subdivision 3, is amended to read:

25.29 Subd. 3. **Standards of conduct.** No tax preparer shall:

- 26.1 (1) without good cause fail to promptly, diligently, and without unreasonable delay
 26.2 complete a client's ~~tax~~ return;
- 26.3 (2) obtain the signature of a client to a ~~tax~~ return or authorizing document that contains
 26.4 blank spaces to be filled in after it has been signed;
- 26.5 (3) fail to sign a client's ~~tax~~ return when payment compensation for services rendered
 26.6 has been made;
- 26.7 (4) fail to provide on a client's return the preparer tax identification number when required
 26.8 under section 6109(a)(4) of the Internal Revenue Code or section 289A.60, subdivision 28;
- 26.9 ~~(4)~~ (5) fail or refuse to give a client a copy of any document requiring the client's signature
 26.10 within a reasonable time after the client signs the document;
- 26.11 ~~(5)~~ (6) fail to retain for at least four years a copy of ~~individual income tax~~ a client's
 26.12 returns;
- 26.13 ~~(6)~~ (7) fail to maintain a confidential relationship with clients or former clients;
- 26.14 ~~(7)~~ (8) fail to take commercially reasonable measures to safeguard a client's nonpublic
 26.15 personal information;
- 26.16 ~~(8)~~ (9) make, authorize, publish, disseminate, circulate, or cause to make, either directly
 26.17 or indirectly, any false, deceptive, or misleading statement or representation relating to or
 26.18 in connection with the offering or provision of tax preparation services;
- 26.19 ~~(9)~~ (10) require a client to enter into a loan arrangement in order to complete a ~~tax~~ client's
 26.20 return;
- 26.21 ~~(10)~~ (11) claim credits or deductions on a client's ~~tax~~ return for which the tax preparer
 26.22 knows or reasonably should know the client does not qualify;
- 26.23 (12) report a household income on a client's claim filed under chapter 290A that the tax
 26.24 preparer knows or reasonably should know is not accurate;
- 26.25 (13) engage in any conduct that is subject to a penalty under section 289A.60, subdivision
 26.26 13, 20, 20a, 26, or 28;
- 26.27 (14) whether or not acting as a taxpayer representative, fail to conform to the standards
 26.28 of conduct required by Minnesota Rules, part 8052.0300, subpart 4;
- 26.29 (15) whether or not acting as a taxpayer representative, engage in any conduct that is
 26.30 incompetent conduct under Minnesota Rules, part 8052.0300, subpart 5;

- 27.1 (16) whether or not acting as a taxpayer representative, engage in any conduct that is
27.2 disreputable conduct under Minnesota Rules, part 8052.0300, subpart 6;
- 27.3 ~~(11)~~ (17) charge, offer to accept, or accept a fee based upon a percentage of an anticipated
27.4 refund for tax preparation services;
- 27.5 ~~(12)~~ (18) under any circumstances, withhold or fail to return to a client a document
27.6 provided by the client for use in preparing the client's tax return;
- 27.7 ~~(13)~~ (19) establish an account in the preparer's name to receive a client's refund through
27.8 a direct deposit or any other instrument unless the client's name is also on the account,
27.9 except that a taxpayer may assign the portion of a refund representing the Minnesota
27.10 education credit available under section 290.0674 to a bank account without the client's
27.11 name, as provided under section 290.0679;
- 27.12 ~~(14)~~ (20) fail to act in the best interests of the client;
- 27.13 ~~(15)~~ (21) fail to safeguard and account for any money handled for the client;
- 27.14 ~~(16)~~ (22) fail to disclose all material facts of which the preparer has knowledge which
27.15 might reasonably affect the client's rights and interests;
- 27.16 ~~(17)~~ (23) violate any provision of section 332.37;
- 27.17 ~~(18)~~ (24) include any of the following in any document provided or signed in connection
27.18 with the provision of tax preparation services:
- 27.19 (i) a hold harmless clause;
- 27.20 (ii) a confession of judgment or a power of attorney to confess judgment against the
27.21 client or appear as the client in any judicial proceeding;
- 27.22 (iii) a waiver of the right to a jury trial, if applicable, in any action brought by or against
27.23 a debtor;
- 27.24 (iv) an assignment of or an order for payment of wages or other compensation for
27.25 services;
- 27.26 (v) a provision in which the client agrees not to assert any claim or defense otherwise
27.27 available;
- 27.28 (vi) a waiver of any provision of this section or a release of any obligation required to
27.29 be performed on the part of the tax preparer; or
- 27.30 (vii) a waiver of the right to injunctive, declaratory, or other equitable relief or relief on
27.31 a class basis; or

28.1 ~~(19)~~ (25) if making, providing, or facilitating a refund anticipation loan, fail to provide
 28.2 all disclosures required by the federal Truth in Lending Act, United States Code, title 15,
 28.3 in a form that may be retained by the client.

28.4 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 28.5 31, 2017.

28.6 Sec. 3. Minnesota Statutes 2016, section 270C.445, subdivision 5a, is amended to read:

28.7 Subd. 5a. **Nongame wildlife checkoff.** A tax preparer must give written notice of the
 28.8 option to contribute to the nongame wildlife management account in section 290.431 to
 28.9 corporate clients that file an income tax return and to individual clients who file an income
 28.10 tax return or ~~property tax refund claim form~~ under chapter 290A. This notification must be
 28.11 included with information sent to the client at the same time as the preliminary worksheets
 28.12 or other documents used in preparing the client's return and must include a line for displaying
 28.13 contributions.

28.14 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 28.15 31, 2017.

28.16 Sec. 4. Minnesota Statutes 2016, section 270C.445, subdivision 6, is amended to read:

28.17 Subd. 6. **Enforcement; administrative order; penalties; cease and desist.** (a) The
 28.18 commissioner may impose an administrative penalty of not more than \$1,000 per violation
 28.19 of subdivision 3, ~~3a, 4, 5, or 5b~~ or 5, or section 270C.4451, provided that a penalty may not
 28.20 be imposed for any conduct ~~that is also subject to the~~ for which a tax return preparer penalties
 28.21 in penalty is imposed under section 289A.60, subdivision 13. The commissioner may
 28.22 terminate a tax preparer's authority to transmit returns electronically to the state, if the
 28.23 commissioner determines the tax preparer engaged in a pattern and practice of violating
 28.24 this section. Imposition of a penalty under this ~~subdivision~~ paragraph is subject to the
 28.25 contested case procedure under chapter 14. The commissioner shall collect the penalty in
 28.26 the same manner as the income tax. There is no right to make a claim for refund under
 28.27 section 289A.50 of the penalty imposed under this paragraph. Penalties imposed under this
 28.28 ~~subdivision~~ paragraph are public data.

28.29 (b) In addition to the penalty under paragraph (a), if the commissioner determines that
 28.30 a tax preparer has violated or is about to violate subdivision 3 or 5, or section 270C.4451,
 28.31 the commissioner may issue an administrative order to the tax preparer requiring the tax
 28.32 preparer to cease and desist from committing the violation. The administrative order may
 28.33 include an administrative penalty provided in paragraph (a).

29.1 (c) If the commissioner issues an administrative order under paragraph (b), the
29.2 commissioner must send the order to the tax preparer addressed to the last known address
29.3 of the tax preparer.

29.4 (d) A cease and desist order under paragraph (b) must:

29.5 (1) describe the act, conduct, or practice committed or about to be committed and include
29.6 a reference to the law that the act, conduct, or practice violates or would violate; and

29.7 (2) provide notice that the tax preparer may request a hearing as provided in this
29.8 subdivision.

29.9 (e) Within 30 days after the commissioner issues an administrative order under paragraph
29.10 (b), the tax preparer may request a hearing to review the commissioner's action. The request
29.11 for hearing must be made in writing and must be served on the commissioner at the address
29.12 specified in the order. The hearing request must specifically state the reasons for seeking
29.13 review of the order. The date on which a request for hearing is served by mail is the postmark
29.14 date on the envelope in which the request for hearing is mailed.

29.15 (f) If a tax preparer does not timely request a hearing regarding an administrative order
29.16 issued under paragraph (b), the order becomes a final order of the commissioner and is not
29.17 subject to review by any court or agency.

29.18 (g) If a tax preparer timely requests a hearing regarding an administrative order issued
29.19 under paragraph (b), the hearing must be commenced within ten days after the commissioner
29.20 receives the request for a hearing.

29.21 (h) A hearing timely requested under paragraph (e) is subject to the contested case
29.22 procedure under chapter 14, as modified by this subdivision. The administrative law judge
29.23 must issue a report containing findings of fact, conclusions of law, and a recommended
29.24 order within ten days after the completion of the hearing, the receipt of late-filed exhibits,
29.25 or the submission of written arguments, whichever is later.

29.26 (i) Within five days of the date of the administrative law judge's report issued under
29.27 paragraph (h), any party aggrieved by the administrative law judge's report may submit
29.28 written exceptions and arguments to the commissioner. Within 15 days after receiving the
29.29 administrative law judge's report, the commissioner must issue an order vacating, modifying,
29.30 or making final the administrative order.

29.31 (j) The commissioner and the tax preparer requesting a hearing may by agreement
29.32 lengthen any time periods prescribed in paragraphs (g) to (i).

30.1 (k) An administrative order issued under paragraph (b) is in effect until it is modified
30.2 or vacated by the commissioner or an appellate court. The administrative hearing provided
30.3 by paragraphs (e) to (i) and any appellate judicial review as provided in chapter 14 constitute
30.4 the exclusive remedy for a tax preparer aggrieved by the order.

30.5 (l) The commissioner may impose an administrative penalty, in addition to the penalty
30.6 under paragraph (a), up to \$5,000 per violation of a cease and desist order issued under
30.7 paragraph (b). Imposition of a penalty under this paragraph is subject to the contested case
30.8 procedure under chapter 14. Within 30 days after the commissioner imposes a penalty under
30.9 this paragraph, the tax preparer assessed the penalty may request a hearing to review the
30.10 penalty order. The request for hearing must be made in writing and must be served on the
30.11 commissioner at the address specified in the order. The hearing request must specifically
30.12 state the reasons for seeking review of the order. The cease and desist order issued under
30.13 paragraph (b) is not subject to review in a proceeding to challenge the penalty order under
30.14 this paragraph. The date on which a request for hearing is served by mail is the postmark
30.15 date on the envelope in which the request for hearing is mailed. If the tax preparer does not
30.16 timely request a hearing, the penalty order becomes a final order of the commissioner and
30.17 is not subject to review by any court or agency. A penalty imposed by the commissioner
30.18 under this paragraph may be collected and enforced by the commissioner as an income tax
30.19 liability. There is no right to make a claim for refund under section 289A.50 of the penalty
30.20 imposed under this paragraph. A penalty imposed under this paragraph is public data.

30.21 (m) If a tax preparer violates a cease and desist order issued under paragraph (b), the
30.22 commissioner may terminate the tax preparer's authority to transmit returns electronically
30.23 to the state. Termination under this paragraph is public data.

30.24 (n) A cease and desist order issued under paragraph (b) is public data when it is a final
30.25 order.

30.26 (o) Notwithstanding any other law, the commissioner may impose a penalty or take other
30.27 action under this subdivision against a tax preparer, with respect to a return, within the
30.28 period to assess tax on that return as provided by section 289A.38.

30.29 (p) Notwithstanding any other law, the imposition of a penalty or any other action against
30.30 a tax preparer under this subdivision, other than with respect to a return, must be taken by
30.31 the commissioner within five years of the violation of statute.

30.32 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
30.33 31, 2017.

31.1 Sec. 5. Minnesota Statutes 2016, section 270C.445, subdivision 6a, is amended to read:

31.2 Subd. 6a. **Exchange of data; State Board of Accountancy.** The State Board of
 31.3 Accountancy shall refer to the commissioner complaints it receives about tax preparers who
 31.4 are not subject to the jurisdiction of the State Board of Accountancy and who are alleged
 31.5 to have violated the provisions of ~~subdivisions 3, 3a, 4, 4a, 4b, 5, and 5b~~ this section, except
 31.6 subdivision 5a, or section 270C.4451.

31.7 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 31.8 31, 2017.

31.9 Sec. 6. Minnesota Statutes 2016, section 270C.445, subdivision 6b, is amended to read:

31.10 Subd. 6b. **Exchange of data; Lawyers Board of Professional Responsibility.** The
 31.11 Lawyers Board of Professional Responsibility may refer to the commissioner complaints
 31.12 it receives about tax preparers who are not subject to its jurisdiction and who are alleged to
 31.13 have violated the provisions of ~~subdivisions 3, 3a, 4, 4a, 4b, 5, and 5b~~ this section, except
 31.14 subdivision 5a, or section 270C.4451.

31.15 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 31.16 31, 2017.

31.17 Sec. 7. Minnesota Statutes 2016, section 270C.445, subdivision 6c, is amended to read:

31.18 Subd. 6c. **Exchange of data; commissioner.** The commissioner shall refer information
 31.19 and complaints about tax preparers who are alleged to have violated the provisions of
 31.20 ~~subdivisions 3, 3a, 4, 4a, 4b, 5, and 5b~~ this section, except subdivision 5a, or section
 31.21 270C.4451, to:

31.22 (1) the State Board of Accountancy, if the tax preparer is under its jurisdiction; and

31.23 (2) the Lawyers Board of Professional Responsibility, if the tax preparer is under its
 31.24 jurisdiction.

31.25 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 31.26 31, 2017.

31.27 Sec. 8. Minnesota Statutes 2016, section 270C.445, subdivision 7, is amended to read:

31.28 Subd. 7. **Enforcement; civil actions.** (a) Any violation of this section or section
 31.29 270C.4451 is an unfair, deceptive, and unlawful trade practice within the meaning of section
 31.30 8.31. An action taken under this section is in the public interest.

32.1 (b) A client may bring a civil action seeking redress for a violation of this section in the
 32.2 conciliation or the district court of the county in which unlawful action is alleged to have
 32.3 been committed or where the respondent resides or has a principal place of business.

32.4 (c) A court finding for the plaintiff must award:

32.5 (1) actual damages;

32.6 (2) incidental and consequential damages;

32.7 (3) statutory damages of twice the sum of: (i) the tax preparation fees; and (ii) if the
 32.8 plaintiff violated ~~subdivision 3a, 4, or 5b~~ section 270C.4451, subdivision 1, 2, or 5, all
 32.9 interest and fees for a refund anticipation loan;

32.10 (4) reasonable attorney fees;

32.11 (5) court costs; and

32.12 (6) any other equitable relief as the court considers appropriate.

32.13 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 32.14 31, 2017.

32.15 Sec. 9. Minnesota Statutes 2016, section 270C.445, subdivision 8, is amended to read:

32.16 Subd. 8. **Limited exemptions.** (a) Except as provided in paragraph (b), the provisions
 32.17 of this section, except for subdivisions 3a, 4, and 5b, subdivisions 3; 5; 5a; 6, paragraphs
 32.18 (a) to (n); and 7, do not apply to:

32.19 (1) an attorney admitted to practice under section 481.01;

32.20 (2) a registered accounting practitioner, a registered accounting practitioner firm, a
 32.21 certified public accountant, or other person who is subject to the jurisdiction of the State
 32.22 Board of Accountancy a certified public accountant firm, licensed in accordance with chapter
 32.23 326A;

32.24 (3) an enrolled agent who has passed the special enrollment examination administered
 32.25 by the Internal Revenue Service; ~~or~~

32.26 (4) ~~anyone~~ a person who provides, or assists in providing, tax preparation services within
 32.27 the scope of duties as an employee ~~or supervisor~~ under the direction or supervision of a
 32.28 person who is exempt under this subdivision; or

32.29 (5) a person acting as a supervisor to a tax preparer who is exempt under this subdivision.

33.1 (b) The provisions of subdivisions 3; 6, paragraphs (a) to (n); and 7, apply to a tax
 33.2 preparer who would otherwise be exempt under paragraph (a) if the tax preparer has:

33.3 (1) had a professional license suspended or revoked for cause, not including a failure to
 33.4 pay a professional licensing fee, by any authority of any state, territory, or possession of
 33.5 the United States, including a commonwealth, or the District of Columbia, any federal court
 33.6 of record, or any federal agency, body, or board;

33.7 (2) irrespective of whether an appeal has been taken, been convicted of any crime
 33.8 involving dishonesty or breach of trust;

33.9 (3) been censured, suspended, or disbarred under United States Treasury Department
 33.10 Circular 230;

33.11 (4) been sanctioned by a court of competent jurisdiction, whether in a civil or criminal
 33.12 proceeding, including suits for injunctive relief, relating to any taxpayer's tax liability or
 33.13 the tax preparer's own tax liability, for:

33.14 (i) instituting or maintaining proceedings primarily for delay;

33.15 (ii) advancing frivolous or groundless arguments; or

33.16 (iii) failing to pursue available administrative remedies; or

33.17 (5) demonstrated a pattern of willful disreputable conduct by:

33.18 (i) failing to file a return that the tax preparer was required to file annually for two of
 33.19 the three immediately preceding tax periods; or

33.20 (ii) failing to file a return that the tax preparer was required to file more frequently than
 33.21 annually for three of the six immediately preceding tax periods.

33.22 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 33.23 31, 2017.

33.24 Sec. 10. Minnesota Statutes 2016, section 270C.445, is amended by adding a subdivision
 33.25 to read:

33.26 Subd. 9. **Powers additional.** The powers and authority granted in this section are in
 33.27 addition to all other powers of the commissioner. The use of the powers granted in this
 33.28 section does not preclude the use of any other power or authority of the commissioner.

33.29 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 33.30 31, 2017.

34.1 Sec. 11. Minnesota Statutes 2016, section 270C.446, subdivision 2, is amended to read:

34.2 Subd. 2. **Required and excluded tax preparers.** (a) Subject to the limitations of
 34.3 paragraph (b), the commissioner must publish lists of tax preparers as defined in section
 34.4 ~~289A.60, subdivision 13, paragraph (f)~~ 270C.445, subdivision 2, paragraph (h), who have
 34.5 been:

34.6 (1) convicted under section 289A.63 for returns or claims prepared as a tax preparer or;

34.7 (2) assessed penalties in excess of \$1,000 under section 289A.60, subdivision 13,
 34.8 paragraph (a);

34.9 (3) convicted for identity theft under section 609.527, or a similar statute, for a return
 34.10 filed with the commissioner, the Internal Revenue Service, or another state;

34.11 (4) assessed a penalty under section 270C.445, subdivision 6, paragraph (a), in excess
 34.12 of \$1,000;

34.13 (5) issued a cease and desist order under section 270C.445, subdivision 6, paragraph
 34.14 (b), that has become a final order; or

34.15 (6) assessed a penalty under section 270C.445, subdivision 6, paragraph (l), for violating
 34.16 a cease and desist order.

34.17 (b) For the purposes of this section, tax preparers are not subject to publication if:

34.18 (1) an administrative or court action contesting the or appealing a penalty described in
 34.19 paragraph (a), clause (2), (4), or (6), has been filed or served and is unresolved at the time
 34.20 when notice would be given under subdivision 3;

34.21 (2) an appeal period to contest the a penalty described in paragraph (a), clause (2), (4),
 34.22 or (6), has not expired; or

34.23 (3) the commissioner has been notified that the tax preparer is deceased;

34.24 (4) an appeal period to contest a cease and desist order issued under section 270C.445,
 34.25 subdivision 6, paragraph (b), has not expired;

34.26 (5) an administrative or court action contesting or appealing a cease and desist order
 34.27 issued under section 270C.445, subdivision 6, paragraph (b), has been filed or served and
 34.28 is unresolved at the time when notice would be given under subdivision 3;

34.29 (6) a direct appeal of a conviction described in paragraph (a), clause (1) or (3), has been
 34.30 filed or served and is unresolved at the time when the notice would be given under
 34.31 subdivision 3; or

35.1 (7) an appeal period to contest a conviction described in paragraph (a), clause (1) or (3),
 35.2 has not expired.

35.3 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 35.4 31, 2017.

35.5 Sec. 12. Minnesota Statutes 2016, section 270C.446, subdivision 3, is amended to read:

35.6 Subd. 3. **Notice to tax preparer.** (a) At least 30 days before publishing the name of a
 35.7 tax preparer subject to ~~penalty~~ publication under this section, the commissioner shall mail
 35.8 a written notice to the tax preparer, detailing the ~~amount and nature of each penalty~~ basis
 35.9 for the publication and the intended publication of the information listed in subdivision 4
 35.10 related to the penalty. The notice must be ~~mailed by first class and certified mail~~ sent to the
 35.11 tax preparer addressed to the last known address of the tax preparer. The notice must include
 35.12 information regarding the exceptions listed in subdivision 2, paragraph (b), and must state
 35.13 that the tax preparer's information will not be published if the tax preparer provides
 35.14 information establishing that subdivision 2, paragraph (b), prohibits publication of the tax
 35.15 preparer's name.

35.16 (b) Thirty days after the notice is mailed and if the tax preparer has not proved to the
 35.17 commissioner that subdivision 2, paragraph (b), prohibits publication, the commissioner
 35.18 may publish in a list of tax preparers subject to penalty the information about the tax preparer
 35.19 that is listed in subdivision 4.

35.20 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 35.21 31, 2017.

35.22 Sec. 13. Minnesota Statutes 2016, section 270C.446, subdivision 4, is amended to read:

35.23 Subd. 4. **Form of list.** The list may be published by any medium or method. The list
 35.24 must contain the name, associated business name or names, address or addresses, and
 35.25 violation or violations ~~for which a penalty was imposed of~~ that make each tax preparer
 35.26 subject to ~~penalty~~ publication.

35.27 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 35.28 31, 2017.

35.29 Sec. 14. Minnesota Statutes 2016, section 270C.446, subdivision 5, is amended to read:

35.30 Subd. 5. **Removal from list.** The commissioner shall remove the name of a tax preparer
 35.31 from the list of tax preparers published under this section:

- 36.1 (1) when the commissioner determines that the name was included on the list in error;
- 36.2 (2) within ~~90 days~~ three years after the preparer has demonstrated to the commissioner
- 36.3 that the preparer fully paid all fines and penalties imposed, served any suspension, satisfied
- 36.4 any sentence imposed, successfully completed any probationary period imposed, and
- 36.5 successfully completed any remedial actions required by the commissioner, the State Board
- 36.6 of Accountancy, or the Lawyers Board of Professional Responsibility; or
- 36.7 (3) when the commissioner has been notified that the tax preparer is deceased.

36.8 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December

36.9 31, 2017.

36.10 Sec. 15. Minnesota Statutes 2016, section 270C.447, subdivision 1, is amended to read:

36.11 Subdivision 1. **Commencement of action.** (a) Whenever it appears to the commissioner

36.12 that a tax preparer doing business in Minnesota has engaged or is about to engage in any

36.13 conduct described in subdivision 2, a civil action in the name of the state of Minnesota may

36.14 be commenced to enjoin any person who is a tax return preparer doing business in this state

36.15 from further engaging in any conduct described in subdivision 2 the conduct and enforce

36.16 compliance.

36.17 (b) An action under this subdivision must be brought by the attorney general in:

36.18 (1) the district court for the judicial district of the tax ~~return~~ preparer's residence or

36.19 principal place of business, ~~or in which the~~;

36.20 (2) the district court for the judicial district of the residence of any taxpayer with respect

36.21 to whose ~~tax~~ return the action is brought ~~resides~~; or

36.22 (3) Ramsey County District Court.

36.23 (c) The court may exercise its jurisdiction over the action separate and apart from any

36.24 other action brought by the state of Minnesota against the tax ~~return~~ preparer or any taxpayer.

36.25 The court must grant a permanent injunction or other appropriate relief if the commissioner

36.26 shows that the person has engaged in or is about to engage in conduct constituting a violation

36.27 of a law administered by the commissioner or a cease and desist order issued by the

36.28 commissioner. The commissioner shall not be required to show irreparable harm.

36.29 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December

36.30 31, 2017.

37.1 Sec. 16. Minnesota Statutes 2016, section 270C.447, subdivision 2, is amended to read:

37.2 Subd. 2. **Injunction prohibiting specific conduct.** In an action under subdivision 1,
37.3 the court may enjoin the person from further engaging in that conduct if the court finds that
37.4 a tax ~~return~~ preparer has:

37.5 (1) engaged or is about to engage in any conduct subject to a civil penalty under section
37.6 289A.60 ~~or~~, a criminal penalty under section 289A.63, or a criminal penalty under section
37.7 609.527 or a similar statute for a return filed with the commissioner, the Internal Revenue
37.8 Service, or another state;

37.9 (2) misrepresented or is about to misrepresent the preparer's eligibility to practice before
37.10 the Department of Revenue, or ~~otherwise~~ misrepresented the preparer's experience or
37.11 education as a tax ~~return~~ preparer;

37.12 (3) guaranteed or is about to guarantee the payment of any tax refund or the allowance
37.13 of any tax credit; ~~or~~

37.14 (4) violated or is about to violate a cease and desist order issued by the commissioner;
37.15 or

37.16 ~~(4)~~ (5) engaged or is about to engage in any other fraudulent or deceptive conduct that
37.17 substantially interferes with the proper administration of a law administered by the
37.18 commissioner, and injunctive relief is appropriate to prevent the recurrence of that conduct;
37.19 ~~the court may enjoin the person from further engaging in that conduct.~~

37.20 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
37.21 31, 2017.

37.22 Sec. 17. Minnesota Statutes 2016, section 270C.447, subdivision 3, is amended to read:

37.23 Subd. 3. **Injunction prohibiting all business activities.** If the court finds that a tax
37.24 ~~return~~ preparer has continually or repeatedly engaged in conduct described in subdivision
37.25 2, and that an injunction prohibiting that conduct would not be sufficient to prevent the
37.26 person's interference with the proper administration of a law administered by the
37.27 commissioner, the court may enjoin the person from acting as a tax ~~return~~ preparer. The
37.28 court may not enjoin the employer of a tax ~~return~~ preparer for conduct described in
37.29 subdivision 2 engaged in by one or more of the employer's employees unless the employer
37.30 was also actively involved in that conduct.

37.31 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
37.32 31, 2017.

38.1 Sec. 18. Minnesota Statutes 2016, section 270C.447, is amended by adding a subdivision
38.2 to read:

38.3 Subd. 3a. **Enforcement of cease and desist orders.** (a) Whenever the commissioner
38.4 under subdivision 1 or 3 seeks to enforce compliance with a cease and desist order, the court
38.5 must consider the allegations in the cease and desist order conclusively established, regardless
38.6 of whether: (1) the order is a final order, (2) a hearing or hearing request on the cease and
38.7 desist order is pending, or (3) the time has not yet expired to request a hearing on the cease
38.8 and desist order.

38.9 (b) If the court finds the tax preparer was not in compliance with a cease and desist order,
38.10 the court may impose a further civil penalty against the tax preparer for contempt in an
38.11 amount up to \$10,000 for each violation and may grant any other relief the court determines
38.12 is just and proper in the circumstances. A civil penalty imposed by a court under this section
38.13 may be collected and enforced by the commissioner as an income tax liability.

38.14 (c) The court may not require the commissioner to post a bond in an action or proceeding
38.15 under this section.

38.16 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
38.17 31, 2017.

38.18 Sec. 19. Minnesota Statutes 2016, section 289A.60, subdivision 13, is amended to read:

38.19 Subd. 13. **Penalties for tax ~~return~~ preparers.** (a) If an understatement of liability with
38.20 respect to a return or claim for refund is due to a reckless disregard of laws and rules or
38.21 willful attempt in any manner to understate the liability for a tax by a person who is a tax
38.22 ~~return~~ preparer with respect to the return or claim, the person shall pay to the commissioner
38.23 a penalty of \$500. If a part of a ~~property tax refund~~ claim filed under section 290.0677,
38.24 subdivision 1, or chapter 290A is excessive due to a reckless disregard or willful attempt
38.25 in any manner to overstate the claim ~~for relief allowed under chapter 290A~~ by a person who
38.26 is a tax ~~refund or return~~ preparer, the ~~person~~ tax preparer shall pay to the commissioner a
38.27 penalty of \$500 with respect to the claim. These penalties may not be assessed against the
38.28 employer of a tax ~~return~~ preparer unless the employer was actively involved in the reckless
38.29 disregard or willful attempt to understate the liability for a tax or to overstate the claim for
38.30 refund. These penalties are income tax liabilities and may be assessed at any time as provided
38.31 in section 289A.38, subdivision 5.

39.1 (b) A civil action in the name of the state of Minnesota may be commenced to enjoin
 39.2 any person who is a tax ~~return~~ preparer doing business in this state as provided in section
 39.3 270C.447.

39.4 (c) The commissioner may terminate or suspend a tax preparer's authority to transmit
 39.5 returns electronically to the state, if the commissioner determines that the tax preparer has
 39.6 engaged in a pattern and practice of conduct in violation of paragraph (a) of this subdivision
 39.7 or has been convicted under section 289A.63.

39.8 (d) For purposes of this subdivision, the term "understatement of liability" means an
 39.9 understatement of the net amount payable with respect to a tax imposed by state tax law,
 39.10 or an overstatement of the net amount creditable or refundable with respect to a tax. The
 39.11 determination of whether or not there is an understatement of liability must be made without
 39.12 regard to any administrative or judicial action involving the taxpayer. For purposes of this
 39.13 subdivision, the amount determined for underpayment of estimated tax under either section
 39.14 289A.25 or 289A.26 is not considered an understatement of liability.

39.15 (e) For purposes of this subdivision, the term "overstatement of claim" means an
 39.16 overstatement of the net amount refundable with respect to a claim ~~for property tax relief~~
 39.17 ~~provided by~~ filed under section 290.0677, subdivision 1, or chapter 290A. The determination
 39.18 of whether or not there is an overstatement of a claim must be made without regard to
 39.19 administrative or judicial action involving the claimant.

39.20 (f) For purposes of this section, the term ~~"tax refund or return preparer"~~ means an
 39.21 ~~individual who prepares for compensation, or who employs one or more individuals to~~
 39.22 ~~prepare for compensation, a return of tax, or a claim for refund of tax. The preparation of~~
 39.23 ~~a substantial part of a return or claim for refund is treated as if it were the preparation of~~
 39.24 ~~the entire return or claim for refund. An individual is not considered a tax return preparer~~
 39.25 ~~merely because the individual:~~

39.26 ~~(1) gives typing, reproducing, or other mechanical assistance;~~

39.27 ~~(2) prepares a return or claim for refund of the employer, or an officer or employee of~~
 39.28 ~~the employer, by whom the individual is regularly and continuously employed;~~

39.29 ~~(3) prepares a return or claim for refund of any person as a fiduciary for that person; or~~

39.30 ~~(4) prepares a claim for refund for a taxpayer in response to a tax order issued to the~~
 39.31 ~~taxpayer.~~ "tax preparer" or "preparer" has the meaning given in section 270C.445, subdivision
 39.32 2, paragraph (h).

40.1 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
40.2 31, 2017.

40.3 Sec. 20. Minnesota Statutes 2016, section 289A.60, subdivision 28, is amended to read:

40.4 Subd. 28. **Preparer identification number.** ~~Any Minnesota individual income tax return~~
40.5 ~~or claim for refund prepared by a "tax refund or return preparer" as defined in subdivision~~
40.6 ~~13, paragraph (f), shall bear the identification number the preparer is required to use federally~~
40.7 ~~under section 6109(a)(4) of the Internal Revenue Code.~~ (a) Each of the following that is
40.8 prepared by a tax preparer must include the tax preparer's tax identification number:

40.9 (1) a tax return required to be filed under this chapter;

40.10 (2) a claim filed under section 290.0677, subdivision 1, or chapter 290A; and

40.11 (3) a claim for refund of an overpayment.

40.12 (b) A tax preparer is not required to include their preparer tax identification number on
40.13 a filing if the number is not required in the forms or filing requirements provided by the
40.14 commissioner.

40.15 (c) A tax refund or return preparer who prepares a Minnesota individual income tax
40.16 return or claim for refund and fails to include the required preparer tax identification number
40.17 on the return or claim as required by this section is subject to a penalty of \$50 for each
40.18 failure.

40.19 (d) A tax preparer who fails to include the preparer tax identification number as required
40.20 by this section, and who is required to have a valid preparer tax identification number issued
40.21 under section 6109(a)(4) of the Internal Revenue Code, but does not have one, is subject to
40.22 a \$500 penalty for each failure. A tax preparer subject to the penalty in this paragraph is
40.23 not subject to the penalty in paragraph (c).

40.24 (e) For the purposes of this subdivision, "tax preparer" has the meaning given in section
40.25 270C.445, subdivision 2, paragraph (h), and "preparer tax identification number" means
40.26 the number the tax preparer is required to use federally under section 6109(a)(4) of the
40.27 Internal Revenue Code.

40.28 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
40.29 31, 2017.

41.1 Sec. 21. **REVISOR'S INSTRUCTION.**

41.2 (a) The revisor of statutes shall renumber the provisions of Minnesota Statutes listed in
 41.3 column A to the references listed in column B.

41.4	<u>Column A</u>	<u>Column B</u>
41.5	<u>270C.445, subdivision 3a</u>	<u>270C.4451, subdivision 1</u>
41.6	<u>270C.445, subdivision 4</u>	<u>270C.4451, subdivision 2</u>
41.7	<u>270C.445, subdivision 4a</u>	<u>270C.4451, subdivision 3</u>
41.8	<u>270C.445, subdivision 4b</u>	<u>270C.4451, subdivision 4</u>
41.9	<u>270C.445, subdivision 5b</u>	<u>270C.4451, subdivision 5</u>

41.10 (b) The revisor shall make necessary cross-reference changes in Minnesota Statutes and
 41.11 Minnesota Rules consistent with the renumbering of Minnesota Statutes, section 270C.445,
 41.12 subdivisions 3a, 4, 4a, 4b, and 5b.

41.13 (c) The revisor shall publish the statutory derivations of the laws renumbered in this act
 41.14 in Laws of Minnesota and report the derivations in Minnesota Statutes.

41.15 (d) If Minnesota Statutes, section 270C.445, subdivisions 3a, 4, 4a, 4b, and 5b, are further
 41.16 amended in the 2017 legislative session, the revisor shall codify the amendments in a manner
 41.17 consistent with this act. The revisor may make necessary changes to sentence structure to
 41.18 preserve the meaning of the text.

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

41.20 Sec. 22. **REPEALER.**

41.21 Minnesota Statutes 2016, sections 270C.445, subdivision 1; and 270C.447, subdivision
 41.22 4, are repealed.

41.23 **EFFECTIVE DATE.** This section is effective for claims and returns filed after December
 41.24 31, 2017.

APPENDIX
Article locations in 17-0140

ARTICLE 1	CORPORATE FRANCHISE TAX	Page.Ln 1.18
ARTICLE 2	PROPERTY TAX AND LOCAL GOVERNMENT AIDS	Page.Ln 6.3
ARTICLE 3	SALES AND USE, AND SPECIAL TAXES	Page.Ln 16.1
ARTICLE 4	PAID PREPARERS	Page.Ln 24.4

270.074 VALUATION OF FLIGHT PROPERTY; METHODS OF APPORTIONMENT; RATIO OF TAX.

Subd. 2. **Other apportionment methods.** The method prescribed by subdivision 1 shall be presumed to determine fairly and correctly the value of the flight property of an airline allocable to this state. Any airline aggrieved by the valuation of the flight property or the application to its case of the apportionment methods prescribed by subdivision 1, may petition the commissioner for determination of the valuation or the apportionment thereof to this state by the use of some other method. Thereupon, if the commissioner finds that the application of the methods prescribed by subdivision 1 will be unjust to the airline, the commissioner may allow the use of the methods so petitioned for by the airline, or may determine the valuation or apportionment thereof by other methods if satisfied that such other methods will fairly reflect such valuation or apportionment thereof.

270C.445 TAX PREPARATION SERVICES.

Subdivision 1. **Scope.** This section applies to a person who provides tax preparation services, except:

- (1) a person who provides tax preparation services for fewer than ten clients in a calendar year;
- (2) a person who provides tax preparation services only to immediate family members. For the purposes of this section, "immediate family members" means a spouse, parent, grandparent, child, or sibling;
- (3) an employee who prepares a tax return for an employer's business;
- (4) any fiduciary, or the regular employees of a fiduciary, while acting on behalf of the fiduciary estate, testator, trustor, grantor, or beneficiaries of them; and
- (5) nonprofit organizations providing tax preparation services under the Internal Revenue Service Volunteer Income Tax Assistance Program or Tax Counseling for the Elderly Program.

270C.447 LEGAL ACTION TO ENJOIN TAX RETURN PREPARER.

Subd. 4. **Tax return preparer.** For purposes of this section, the term "tax return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

- (1) gives typing, reproducing, or other mechanical assistance;
- (2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;
- (3) prepares a return or claim for refund of any person as a fiduciary for that person; or
- (4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

APPENDIX
Repealed Minnesota Rule: 17-0140

8125.1300 REFUNDS AND CREDITS.

Subp. 3. **Gasoline used in aircraft.** Refunds for gasoline, other than aviation gasoline, purchased and used to produce or generate power for propelling aircraft shall be issued only to those claimants who have received approval to use such gasoline from the Federal Aviation Administration as evidenced by a supplemental type certificate.