

erty, the change shall be transmitted to the county auditor, who shall immediately recompute the tax and advise the treasurer of the corrected tax. If the property is entitled to homestead classification and tax credit pursuant to section 273.13, subdivision 16, the auditor shall also take appropriate action to reflect the reduction in tax.

Subd. 7. The tax assessed on class 2a property shall be deemed to be a personal property tax and laws relating to assessment, review, and collection of personal property taxes shall be applicable to this tax, if not inconsistent with provisions in this act.

Sec. 3. This act is effective for taxes payable in 1976 and subsequent years.

Approved June 4, 1975.

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### CHAPTER 377—H.F.No.674

[Coded in Part]

*An act relating to taxation; providing for additional powers to commissioner of revenue for collection of unpaid tax; providing for third party liability for withholding tax; changing rates of penalty and interest; providing that contractors shall give bond for certain unpaid taxes; amending Minnesota Statutes 1974, Chapters 270; 291; 292; by adding sections; Sections 270.07, Subdivisions 1 and 5; 270.075, Subdivision 2; 270.076, Subdivision 2; 273.41; 290.087, Subdivisions 4 and 5; 290.45, Subdivision 2; 290.53, Subdivisions 1 and 2; 290.92, Subdivision 15, and by adding a subdivision; 290.93, Subdivision 10; 290.934, Subdivision 1; 290.988, Subdivisions 2 and 3; 291.11, Subdivision 5; 291.15; 291.18; 291.35; 291.46; 292.12, Subdivision 1; 294.03, Subdivisions 1 and 2; 296.15, Subdivisions 1 and 2; 297.07, Subdivision 4; 297.35, Subdivision 5; 297A.35, Subdivision 1; 297A.39, Subdivision 7; 298.09, Subdivision 4; 574.26; 574.261, Subdivision 1; repealing Minnesota Statutes 1974, Section 292.11.*

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

Section 1. Minnesota Statutes 1974, Section 270.07, Subdivision 1, is amended to read:

**270.07 TAXATION; COMMISSIONER OF REVENUE; POWERS AND DUTIES; PENALTIES AND INTEREST; POWER TO ABATE.** Subdivision 1. The commissioner of revenue shall prescribe the form of all blanks and books required under this chapter. He shall hear and determine all matters of grievance relating to taxation. Except as otherwise provided by law, he shall have power to grant such reduction or abatement of assessed valuations or taxes and of any costs, penalties or interest thereon as he may deem just and equitable, and to order the refundment, in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. Application

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therefor shall be submitted with a statement of facts in the case and the favorable recommendation of the county board or of the board of abatement of any city where any such board exists, and the county auditor of the county wherein such tax was levied or paid. In the case of gross earnings taxes the application may be made directly to the commissioner without the favorable action of the county board and county auditor, and the commissioner shall direct that any gross earnings taxes which may have been erroneously or unjustly paid shall be applied against unpaid taxes due from the applicant for such refundment. No reduction, abatement, or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality. The commissioner may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and his decision thereon shall be in force and effect until annulled by the judgment of a court of competent jurisdiction. The commissioner shall forward to the county auditor a copy of the order by him made in all cases in which the approval of the county board is required. The commissioner may by written order abate, reduce, or refund any penalty or interest imposed by any law relating to taxation, if in his opinion the enforcement of such a penalty or the payment of such interest would be unjust and inequitable. Such order shall, in the case of real and personal property taxes, be made only on application and approval as provided in this section; in the case of all other taxes, such order shall be made on application of the taxpayer to the commissioner and, if the order is for an abatement, reduction or refund of over \$500, it shall be valid only if approved in writing by the attorney general.

An appeal may not be taken to the tax court from any order of the commissioner of revenue made in the exercise of the discretionary authority granted to him in this subdivision in response to a taxpayer's application for an abatement, reduction or refund of taxes, assessed valuations, costs, penalties or interest.

Sec. 2. Minnesota Statutes 1974, Section 270.07, Subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other provision of law to the contrary, in the case of an overpayment of any tax collected by the commissioner of revenue, the commissioner ; ~~within the applicable period of limitations;~~ may credit the amount of such overpayment against any uncontested delinquent tax liability on the part of the taxpayer who made the overpayment. An overpayment may be credited under this subdivision only if the uncontested delinquent liability has been assessed within ten years of the date on which the overpayment is credited. However, this limitation shall not be applicable if the delinquent liability has been entered into judgment or if legal action is pending for collection of the liability or for renewal of the judgment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid.

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Sec. 3. Minnesota Statutes 1974, Section 270.075, Subdivision 2, is amended to read:

Subd. 2. As soon as practicable and not later than November 1 next following the levy of the tax, the commissioner shall give actual notice to the airline company of the assessed valuation and of the tax. The taxes imposed under sections 270.071 to 270.079 shall become due and payable on January 1 following the levy thereof ~~and if not paid to the commissioner on or before February 1 next following shall become delinquent.~~ The delinquent tax shall carry interest at the rate of one percent per month from January 1 for the first year of delinquency and thereafter at the rate of one-half of one percent for each month or fraction thereof until paid. Such interest shall be a part of the tax. Failure to send or receive the notice herein provided for or error in such notice shall not excuse the payment of the tax as required by sections 270.071 to 270.079 . If any tax is not paid on the due date or, if an appeal is made pursuant to section 270.076, within 30 days after notice of an increased tax, a late payment penalty of ten percent of the unpaid tax shall be assessed. The unpaid tax and penalty shall bear interest at the rate specified in section 7 from the time such tax should have been paid until paid. All interest and penalties shall be added to the tax and collected as a part thereof.

Sec. 4. Minnesota Statutes 1974, Section 270.076, Subdivision 2, is amended to read:

Subd. 2. In case of appeal from the assessment and levy of the tax, the airline company shall currently pay when due that portion of the tax which is admitted to be due. If the final determination of the litigation should result in sustaining the assessment and levy or in the finding that the amount paid by the airline company is insufficient, the difference between the amount paid and the amount which should have been paid shall be decreed delinquent taxes subject to interest, as hereinabove provided. ~~If the tax court or the supreme court should decide that the appeal was reasonable or justifiable, it may remit all or any part of the interest.~~ If the final determination of the tax court or the supreme court shall result in increasing any assessment above that which was made final by the order of the commissioner from which the appeal is taken, then the taxes on such increased assessment shall be delinquent 30 days after notice of the amount of the increased tax shall have been given to the airline company by the commissioner.

Sec. 5. Minnesota Statutes 1974, Chapter 270, is amended by adding a section to read:

**[270.66] RIGHT OF SETOFF.** Upon certification by the commissioner of revenue to the commissioner of finance that a taxpayer has an uncontested delinquent tax liability owed to the commissioner of revenue, and notice that the state has purchased personal services, supplies, contract service, or purchased property from said taxpayer, the commissioner of finance shall apply to such delinquent tax liability

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funds sufficient to satisfy such unpaid tax liability from funds appropriated for payment of said obligation of the state or any of its agencies that are due and owing the taxpayer, provided however, that such credit shall not be made against any funds exempt under section 550.37 or owed the taxpayer under the provisions of chapter 256 or 256B.

All funds, whether general or dedicated, shall be subject to setoff in the manner herein provided. Transfer of funds as herein provided is payment of the obligation of the state or any of its agencies to such taxpayer and any actions for said funds, if any, shall be had against the department of revenue on the issue of such tax liability. Nothing in this section shall be construed to limit the previously existing right of the state or any of its agencies to setoff.

Sec. 6. Minnesota Statutes 1974, Chapter 270, is amended by adding a section to read:

[270.70] LEVY AND DISTRAINT. Subdivision 1. AUTHORITY OF COMMISSIONER. If any tax payable to the commissioner of revenue or to the department of revenue is not paid when due, such tax may be collected by the commissioner of revenue by a levy upon all property and rights to property of the person liable for such tax, except that which is exempt from execution pursuant to section 550.37. For this purpose, the term "tax" shall include any penalty, interest and costs properly payable. The term "levy" includes the power of distraint and seizure by any means.

Subd. 2. JEOPARDY COLLECTION. Before a levy is made, notice and demand for payment of the amount due shall be given to the person liable for the tax at least ten days prior to the levy. If the commissioner has reason to believe that collection of the tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the commissioner. If the tax is not paid, the commissioner may proceed to collect by levy without regard to the ten day period provided herein.

Subd. 3. MANNER OF EXECUTION AND SALE. In making the execution of the levy and in collecting the taxes due, the commissioner shall have all of the powers provided in chapter 550 and in any other law for purposes of effecting an execution against property in this state. The sale of property levied upon, and the time and manner of redemption therefrom, shall be as provided in chapter 550. The seal of the court, subscribed by the clerk, as provided in section 550.04, shall not be required. The levy for collection of taxes may be made whether or not the commissioner has commenced a legal action for collection of such taxes.

Subd. 4. STAY OF SALE. (a) Where a jeopardy assessment or any other assessment has been made by the commissioner, the property seized for collection of the tax shall not be sold until the time has ex-

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pired for filing an appeal of the assessment with the tax court pursuant to chapter 271. If an appeal has been filed, no sale shall be made unless the taxes remain unpaid for a period of more than 30 days after final determination of the appeal by the tax court or by the appropriate judicial forum.

(b) Notwithstanding clause (a), seized property may be sold if

(i) the taxpayer consents in writing to the sale, or

(ii) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense.

Subd. 5. PROBATE COURT JURISDICTION. Where a levy has been made to collect taxes pursuant to subdivision 1 and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, such property shall not be sold until the probate proceedings are completed or until the court so orders.

Subd. 6. BOND OR SECURITY TO RELEASE SEIZURE. The property seized shall be returned by the commissioner if the owner gives a surety bond equal to the appraised value of his interest in the property, as determined by the commissioner, or deposits with the commissioner security in such form and amount as he deems necessary to insure payment of the liability, but not more than twice the liability.

Subd. 7. INJUNCTION. Notwithstanding any other provision to the contrary, if a levy or sale pursuant to this section would irreparably injure rights in property which the court determines to be superior to rights of the state in such property, the district court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

Subd. 8. SURRENDER OF PROPERTY SUBJECT TO LEVY. Any person who fails or refuses to surrender without reasonable cause any property or rights to property subject to levy, upon demand by the commissioner, shall be liable in his own person to the state of Minnesota in an amount equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made. Any amount recovered under this subdivision shall be credited against the tax liability for the collection of which such levy was made.

Subd. 9. PENALTY. In addition to the personal liability imposed by subdivision 8, if any person required to surrender property or rights to property fails or refuses to surrender the property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 25 percent of the amount recoverable under subdivision 8. No

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part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

Subd. 10. PERSON DEFINED. The term "person" as used in subdivision 8 includes an officer or employee of a corporation or a member or employee of a partnership who, as such officer, employee or member is under a duty to surrender the property or rights to property or to discharge the obligation.

Subd. 11. OPTIONAL REMEDY. Any action taken by the commissioner pursuant to this section shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy.

Subd. 12. EQUITABLE RELIEF. After the commissioner has seized the property of any person, that person may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property to the taxpayer upon such terms and conditions as the court may deem equitable.

Sec. 7. Minnesota Statutes 1974, Chapter 270, is amended by adding a section to read:

[270.75] INTEREST PAYABLE TO COMMISSIONER. Subdivision 1. If any tax payable to the commissioner of revenue or to the department of revenue is not paid within the time specified by law for payment, the unpaid tax shall bear interest at the rate of eight percent per annum from the date such tax should have been paid until the date that the tax was paid, unless otherwise provided by law. Unpaid taxes collected under section 290.92 or under chapter 297A shall bear interest at the rate of ten percent per annum from the date such tax should have been paid until the date that the tax was paid.

Subd. 2. When an extension of time has been granted by the commissioner, interest shall be paid at the rate of eight percent per annum from the date such payment should have been made, if no extension had been granted, until the date of payment of such tax. Unpaid taxes collected under section 290.92 or under chapter 297A shall bear interest at the rate of ten percent per annum from the date such payment should have been made, if no extension had been granted, until the date of payment of such tax.

Subd. 3. If any penalty payable to the commissioner of revenue shall by law bear interest, such penalty shall bear interest at the rate of eight percent per annum from the date the penalty was assessable until the date that such penalty was paid, unless a different rate of interest is otherwise provided by law. Any penalty collected under section 290.92 or under chapter 297A shall bear interest at the rate of ten percent per annum from the date the penalty was assessable until the date that such penalty was paid.

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Subd. 4. There shall be added to the amount of any underpayment of estimated income tax, computed pursuant to chapter 290, an amount in lieu of interest determined at the rate of eight percent per annum.

Sec. 8. Minnesota Statutes 1974, Section 273.41, is amended to read:

**273.41 AMOUNT OF TAX; DISTRIBUTION.** There is hereby imposed upon each such cooperative association on December 31 of each year a tax of \$10 for each 100 members, or fraction thereof, of such association. The tax, when paid, shall be in lieu of all personal property taxes, state, county, or local, upon distribution lines and the attachments and appurtenances thereto of such associations located in rural areas. The tax shall be payable on or before March 1 of the next succeeding year, to the commissioner of revenue. If the tax, or any portion thereof, is not paid within the time herein specified for the payment thereof, there shall be added thereto a specific penalty equal to ~~five~~<sup>ten</sup> percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate of ~~four percent per annum~~<sup>specified in section 7</sup> from the time such tax should have been paid until paid. The commissioner shall deposit the amount so received in the general fund of the state treasury.

Sec. 9. Minnesota Statutes 1974, Section 290.087, Subdivision 4, is amended to read:

Subd. 4. In any case in which it is determined that a claim is or was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or credit has been allowed against income taxes otherwise payable, the credit shall be cancelled and the amount paid may be recovered by assessment as income taxes are assessed. A penalty of 25 percent shall be imposed and such assessment shall bear interest from the due date of the return until refunded or paid, at the rate of ~~six percent per annum~~<sup>specified in section 7</sup>. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, shall be guilty of a misdemeanor.

Sec. 10. Minnesota Statutes 1974, Section 290.087, Subdivision 5, is amended to read:

Subd. 5. In any case in which it is determined that a claim is or was excessive, a ten percent penalty shall be imposed on such excess and if the claim has been paid, or credited against income taxes otherwise payable, the credit shall be reduced or cancelled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed and such assessment shall bear interest at ~~six percent per annum~~<sup>the rate specified in section 7</sup> from the date

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of payment until refunded or paid.

Sec. 11. Minnesota Statutes 1974, Section 290.45, Subdivision 2, is amended to read:

Subd. 2. **EXTENSIONS.** (A) At the request of the taxpayer, and for good cause shown, the commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, or any installment thereof, or any amount determined as a deficiency, for a period not to exceed six months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid together with interest at the rate of ~~six percent per annum~~ specified in section 7 on or before the date of the expiration of the period of the extension.

(B) When any portion of the tax as reported by the taxpayer together with interest and penalty thereon, if any, has not been paid six months from the date prescribed by law for the payment thereof ; ~~or within six months after the passage of this act, whichever is the later,~~ the commissioner may extend the time for payment thereof for a further period not to exceed 30 months. When the authority of this paragraph (B) is invoked, the extension shall be evidenced by written agreement signed by the taxpayer and the commissioner, stating the amount of such tax with penalty and interest, if any, and providing for the payment of such amount in regular weekly, semi-monthly or monthly installments, which agreement shall contain a confession of judgment for such amount and for any unpaid portion thereof and providing that the commissioner may forthwith enter judgment against the taxpayer in the district court of the county of his residence as shown upon his tax return for the unpaid portion of the amount specified in said extension agreement. The principal sum specified in said agreement shall bear interest at the rate of ~~six percent per annum~~ specified in section 7 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment, which judgment shall bear interest at the rate of ~~six percent per annum~~ specified in section 7 . If it shall appear to the satisfaction of the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the judgment entered pursuant thereto shall be so corrected. If after making such extension agreement or entering judgment with respect thereto, the commissioner shall determine that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess such further tax in accordance with the provisions of Minnesota Statutes, Chapter 290. The authority granted to the commissioner by this paragraph (B) is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof.

Sec. 12. Minnesota Statutes 1974, Section 290.53, Subdivision 1, is amended to read:

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**290.53 PENALTIES, INTEREST. Subdivision 1. FAILURE TO PAY TAX.** If any tax imposed by this act, or any portion thereof, is not paid within the time herein specified for the payment thereof, or within 30 days after final determination of an appeal to the tax court relating thereto, there shall be added thereto a specific penalty equal to ~~five-ten~~ percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty shall bear interest at the rate of ~~six percent per annum~~ specified in section 7 from the time such tax should have been paid until paid. Interest accruing upon the tax due as disclosed by the return or upon the amount determined as a deficiency from the date prescribed for the payment of the tax (if the tax is payable in installments, from the date the installment or installments become due and payable under the provisions of section 290.45, subdivision 1) shall be added to the tax and be collected as a part thereof. Where an extension of time for payment has been granted under section 290.45, subdivision 2, interest shall be paid at the rate of ~~six percent per annum~~ specified in section 7 from the date when such payment should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this section shall apply.

Sec. 13. Minnesota Statutes 1974, Section 290.53, Subdivision 2, is amended to read:

**Subd. 2. FAILURE TO MAKE AND FILE RETURN, NOT DUE TO WILFUL NEGLIGENCE.** In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the ~~five percent~~ specific penalty provided in subdivision 1: ~~five-ten~~ percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate of ~~six percent per annum~~ specified in section 7 from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For the purposes of this subdivision the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Sec. 14. Minnesota Statutes 1974, Section 290.92, Subdivision 15, is amended to read:

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**Subd. 15. TAXATION; INCOME TAX; WITHHOLDING; PENALTIES.** (1) If any tax required to be deducted and withheld under subdivision 2a or subdivision 3, or any portion thereof, is not paid to or deposited with the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to ~~five-ten~~ percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate of ~~six percent per annum~~ specified in section 7 from the time such tax should have been paid or deposited until paid. Where an extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate of ~~six percent per annum~~ specified in section 7 from the date when such payment or deposit should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the ~~five percent~~ penalty provided in paragraph (1) a penalty equal to ~~five-ten~~ percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, wilfully fails to withhold such a tax or make such deposits, files a false or fraudulent return, wilfully fails to make such a payment or deposit, or wilfully attempts in any manner to evade or defeat any such tax or the payment or deposit thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid or deposited by such employer on the basis of such false or fraudulent return or deposit) that should have been properly withheld and paid over or deposited with the commissioner. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) If any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, wilfully furnishes a false or fraudulent statement to an

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employee or a false or fraudulent duplicate statement to the commissioner, or wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6(8).

(5) In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments or deposits to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return or make such a payment or deposit, shall be guilty of a gross misdemeanor.

(6) In lieu of any other penalty provided by law, except the penalty provided by paragraph (4), any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, who wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.

(7) Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or subdivision 3, shall be guilty of a misdemeanor.

(8) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(10) The commissioner shall have power to abate any civil penalties prescribed in this subdivision when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general if the abatement exceeds \$500.

Sec. 15. Minnesota Statutes 1974, Section 290.92, is amended by adding a subdivision to read:

**Subd. 22. LIABILITY OF THIRD PARTIES PAYING OR PROVID-**

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**ING FOR WAGES.** (a) For purposes of this section, if a lender, surety, or other person, who is not an employer with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable to the commissioner in a sum equal to the taxes required to be deducted and withheld from such wages by such employer.

(b) If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by this section to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable personally to the commissioner in a sum equal to the taxes which are not paid over to the commissioner by such employer with respect to such wages.

(c) For purposes of this subdivision, a person shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the person had exercised due diligence. A person exercises due diligence if he maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the person to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(d) Any amounts paid to the commissioner pursuant to this subdivision shall be credited to the liability of the employer.

Sec. 16. Minnesota Statutes 1974, Section 290.93, Subdivision 10, is amended to read:

Subd. 10. **UNDERPAYMENT OF ESTIMATED TAX.** (1) In the case of any underpayment of estimated tax by an individual, except as provided in paragraph (4), there may be added to and become a part of the taxes imposed by Minnesota Statutes, Chapter 290, for the taxable year an amount determined at the rate of ~~six percent per annum~~ specified in section 7 upon the amount of the underpayment for the period of the underpayment.

(2) For purposes of the preceding paragraph, the amount of underpayment shall be the excess of

(a) The amount of the installment which would be required to be  
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paid if the estimated tax were equal to 70 percent (66 2/3 percent in the case of farmers referred to in subdivision 5(2) of this section) of the taxes shown on the return for the taxable year or the taxes for such year if no return was filed, over

(b) The amount, if any, of the installment paid on or before the last day prescribed for such payment.

(3) The period of the underpayment shall run from the date of the installment was required to be paid to whichever of the following dates is the earlier

(a) The 15th day of the fourth month following the close of the taxable year.

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this sub-paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (2) (a) for such installment date.

(4) The addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser

(a) The total tax liability shown on the return of the individual for the preceding taxable year (if a return showing a liability for such taxes was filed by the individual for the preceding taxable year of 12 months), or

(b) An amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to credits allowed by section 290.06, subdivision 3-3c, for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to the preceding taxable year, or

(c) An amount equal to 70 percent (66 2/3 percent in the case of farmers referred to in subdivision 5(2) of this section) of the tax for the taxable year (after deducting personal credits) computed by placing on an annualized basis the taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this sub-paragraph, the taxable income shall be placed on an annualized basis by

(i) Multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.

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(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, or

(d) An amount equal to 90 percent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(5) For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and the amount of such credit for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date (determined under subdivisions 6 and 7 of this section) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(6) The application of this subdivision to taxable years of less than 12 months shall be in accordance with regulations prescribed by the commissioner.

Sec. 17. Minnesota Statutes 1974, Section 290.934, Subdivision 1, is amended to read:

**290.934 FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.** Subdivision 1. **ADDITION TO THE TAX.** In case of any underpayment of estimated tax by a corporation, except as provided in subdivision 4, there shall be added to the tax for the taxable year an amount determined at the rate of ~~six percent per annum~~ specified in section 7 upon the amount of the underpayment (determined under subdivision 2) for the period of the underpayment (determined under subdivision 3).

Sec. 18. Minnesota Statutes 1974, Section 290.988, Subdivision 2, is amended to read:

**Subd. 2. FRAUDULENT CLAIM.** In any case in which it is determined that a claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full, and, if the claim has been paid or a credit has been allowed against income taxes otherwise payable, the credit shall be cancelled and the amount paid may be recovered by assessment as income taxes are assessed. A penalty of 25 percent shall be imposed and such assessment shall bear interest from the due date of the return, until refunded or paid, at the rate of ~~six percent per annum~~ specified in section 7. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was

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prepared, with fraudulent intent, shall be guilty of a misdemeanor.

Sec. 19. Minnesota Statutes 1974, Section 290.988, Subdivision 3, is amended to read:

Subd. 3. **EXCESSIVE OR NEGLIGENT CLAIM.** In any case in which it is determined that a claim is or was excessive, a ten percent penalty shall be imposed on such excess and if the claim has been paid, or credited against income taxes otherwise payable, the credit shall be reduced or cancelled, and the proper portion of any amount paid shall be similarly recovered by assessment as income taxes are assessed and such assessment shall bear interest at ~~six percent per annum~~ the rate specified in section 7 from the date of payment until refunded or paid.

Sec. 20. Minnesota Statutes 1974, Section 291.11, Subdivision 5, is amended to read:

Subd. 5. **WHEN TAX PAID; REFUND.** When property is transferred in trust or otherwise, and the rights, interest, or estates of the transferee are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon the transfer at the highest rate which, on the happening of any of the contingencies or conditions, would be possible under the provisions of this chapter, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, that on the happening of any contingency whereby the property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this chapter, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which the person or corporation should pay under the provisions of this chapter, with interest thereon at the rate of ~~three-six~~ six percent per annum from the time of payment. Such return of overpayment shall be made in the manner provided by section 291.32.

Sec. 21. Minnesota Statutes 1974, Chapter 291, is amended by adding a section to read:

**[291.131] PENALTIES.** Subdivision 1. If any tax imposed by this chapter is not paid within the time specified for payment, or within 30 days after final determination of an appeal to the appropriate judicial forum, a penalty equal to ten percent of the unpaid tax shall be added to the tax.

Subd. 2. In case of any failure to make and file a return within the time prescribed or an extension thereof, unless it is shown that such failure is not due to willful neglect, a penalty of ten percent shall be added to the tax if the failure is for not more than 30 days with an ad-

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ditional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. This penalty shall be in lieu of the penalty provided in subdivision 1.

Subd. 3. If any person with willful intent to evade the tax imposed by this chapter shall fail to file any return required by this chapter or shall with such intent file a false or fraudulent return, a penalty of 50 percent of any tax found to be due (less any amounts paid on the basis of such false or fraudulent return) shall be imposed. This penalty shall be in addition to any other penalties, civil or criminal, provided in this section.

Subd. 4. In addition to the penalties hereinbefore described, any person who knowingly fails to file a return at the time required by this chapter shall be guilty of a misdemeanor, unless no taxes are due. Any person who willfully files a false return with intent to evade such taxes shall be guilty of a gross misdemeanor. The term "person" includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Subd. 5. The commissioner shall have the power to abate penalties when in his judgment their enforcement would be unjust and inequitable, subject to the approval of the attorney general if the abatement exceeds \$500.

Subd. 6. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate specified in section 7 from the time such tax should have been paid until paid. All interest and penalty shall be added to the tax and collected as a part thereof.

Sec. 22. Minnesota Statutes 1974, Chapter 291, is amended by adding a section to read:

[291.132] EXTENSION TO FILE OR PAY. The commissioner may extend the time for filing returns or making payment of the tax, without penalty, for a period not to exceed six months. Where an extension of time has been granted, interest shall be payable at the rate specified in section 7 from the date when such payment should have been made, if no extension had been granted, until such tax is paid.

Sec. 23. Minnesota Statutes 1974, Section 291.15, is amended to read:

291.15 INTEREST. If such tax is not paid within 12 months from the accruing thereof, interest shall be charged and collected thereon at the rate of six percent per annum for not to exceed six years from the time the tax is due specified in section 7 from the due date until the date the tax is paid. In the event a person or corporation upon proper

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authorization makes a payment to be applied against the tax thereafter, no interest shall accrue on the amount so paid. All payments shall be applied first ~~on~~-to penalties, next to interest and then upon principal.

In the event that the amount applied against the tax exceeds the tax as determined by the commissioner of revenue, the commissioner shall upon proper application order the refundment without interest. The commissioner of finance shall cause such refund to be paid out of the proceeds of the tax imposed by chapter 291, and so much of said proceeds as are sufficient to make the refund are hereby appropriated.

Sec. 24. Minnesota Statutes 1974, Section 291.18, is amended to read:

**291.18 OVERPAYMENT OF TAX; REFUNDS; APPROPRIATION.**

When any tax, ~~or~~ penalty and accrued interest thereon, imposed by this chapter shall have been paid or collected, in excess of the amount legally due, the person or corporation paying the same shall be entitled to a refundment of the amount of such taxes, penalty and interest overpaid, together with interest thereon at the rate of ~~four-six~~ percent per annum from the date of payment, or from the date beginning 12 months after death of the decedent, whichever date occurs later, in the manner provided by section 291.32; provided that all applications for such refundment shall be made within two years from the date of final determination or adjustment of any part of such tax by the taxpayer and the commissioner, the probate court or the tax court, as the case may be.

*There is hereby appropriated to the persons entitled to such refund, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.*

Sec. 25. Minnesota Statutes 1974, Section 291.35, is amended to read:

**291.35 TIME OF PAYMENT.** The tax imposed by sections 291.34 to 291.40 shall become due and payable at the expiration of 12 months after the death of the person from whom the transfer is made, and executors, administrators, trustees, grantees, donees, beneficiaries, and surviving joint owners shall be and remain liable for the tax until it is paid. If the tax is not paid when due ~~interest at the rate of six percent per annum shall be charged and collected from the time the same became payable~~, a late payment penalty of ten percent of the unpaid tax shall be assessed and the unpaid tax and penalty shall bear interest at the rate specified in section 7 from the date that such tax should have been paid until paid.

Sec. 26. Minnesota Statutes 1974, Section 291.46, is amended to read:

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**291.46 PENALTIES, INTEREST; LIMITATION.** When in any case the board of arbitration determines that a decedent died domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed ~~four-ten~~ percent of the amount of the taxes per annum.

Sec. 27. Minnesota Statutes 1974, Chapter 292, is amended by adding a section to read:

**[292.111] PENALTIES, INTEREST, CRIMINAL LIABILITY.** Subdivision 1. If any tax imposed by this chapter is not paid within the time specified for payment, or within 30 days after final determination of an appeal to the appropriate judicial forum, a penalty equal to ten percent of the unpaid tax shall be added to the tax.

Subd. 2. In case of any failure to make and file a return within the time prescribed or an extension thereof, unless it is shown that such failure is not due to willful neglect, a penalty of ten percent shall be added to the tax if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. This penalty shall be in lieu of the penalty provided in subdivision 1.

Subd. 3. If any person with willful intent to evade the tax imposed by this chapter shall fail to file any return required by this chapter or shall with such intent file a false or fraudulent return, a penalty of 50 percent of any tax found to be due (less any amounts paid on the basis of such false or fraudulent return) shall be imposed. This penalty shall be in addition to any other penalties, civil or criminal, provided in this section.

Subd. 4. In addition to the penalties hereinbefore described, any person who knowingly fails to file a return at the time required by this chapter shall be guilty of a misdemeanor. Any person who willfully files a false return with intent to evade such taxes shall be guilty of a gross misdemeanor. The term "person" includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Subd. 5. The commissioner shall have the power to abate penalties when in his judgment their enforcement would be unjust and inequitable, subject to the approval of the attorney general if the abatement exceeds \$500.

Subd. 6. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate specified in section 7 from the time such tax should have been paid until paid. All interest and penalty shall be added to the tax and collected as

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a part thereof.

Sec. 28. Minnesota Statutes 1974, Chapter 292, is amended by adding a section to read:

**[292.112] EXTENSION TO FILE OR PAY.** The commissioner may extend the time for filing returns or making payment of the tax, without penalty, for a period not to exceed six months. Where an extension of time has been granted, interest shall be payable at the rate specified in section 7 from the date when such payment should have been made, if no extension had been granted, until such tax is paid.

Sec. 29. Minnesota Statutes 1974, Section 292.12, Subdivision 1, is amended to read:

**292.12 REFUNDMENT.** Subdivision 1. **AMOUNT; MANNER.** The commissioner of revenue shall determine the amount of any taxes paid by, or collected from, any person in excess of the amount of tax legally due from him under the provisions of this chapter if claim therefor is filed with the commissioner of revenue within two years after such tax was paid or collected or three and one-half years after the return was filed, whichever is later. Upon the filing of such claim in the manner prescribed by him the commissioner shall make a written order thereon denying or allowing the claim in whole or in part and shall mail a copy of such order to the claimant at the address stated on the claim. He shall cause to be refunded in the same manner provided by law the amount of tax paid or collected in excess of the amount legally due, plus interest thereon at the rate of ~~four~~-~~six~~ percent per annum from the date of the payment or collection of the tax until the date the refund is paid. The amount necessary to pay such refunds is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, and the ~~state treasurer shall pay~~ commissioner of finance shall issue warrants therefor out of any funds in the state treasury not otherwise appropriated. No refund shall be denied merely because the tax was voluntarily paid or no protest made to its payment. Refund shall not be made of taxes collected by the methods provided in Minnesota Statutes 1945, Section 292.09, Subdivision 1, or Section 271.06.

Sec. 30. Minnesota Statutes 1974, Section 294.03, Subdivision 1, is amended to read:

**294.03 FAILURE TO PAY TAX; PENALTIES, INTEREST.** Subdivision 1. If any company, joint stock association, copartnership, corporation, or individual required by law to pay taxes to the state on a gross earnings basis shall fail to pay such tax or gross earnings percentage within the time specified by law for the payment thereof, or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added a specific penalty equal to ~~five~~-~~ten~~ percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate

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of ~~six percent per annum~~ specified in section 7 from the time such tax should have been paid until paid.

Sec. 31. Minnesota Statutes 1974, Section 294.03, Subdivision 2, is amended to read:

Subd. 2. In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the ~~five-ten~~ percent specific penalty provided in subdivision 1: ~~five-ten~~ percent if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate of ~~six percent per annum~~ specified in section 7 from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For purposes of this subdivision, the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Sec. 32. Minnesota Statutes 1974, Section 296.15, Subdivision 1, is amended to read:

**296.15 NONPAYMENT OF TAX, PENALTIES.** Subdivision 1. **PENALTY, INTEREST.** (a) In case a properly licensed distributor, special fuel dealer, bulk purchaser or motor carrier does not pay any tax or inspection fee when due, a penalty of one percent per day for the first ten days of delinquency shall accrue, and thereafter the tax, fees and penalty shall bear interest at the rate of ~~six percent per year~~ until paid-specified in section 7.

(b) If any person operates as a distributor, special fuel dealer, bulk purchaser or motor carrier without first securing the license required under this chapter, any tax or inspection fee imposed by this chapter shall become immediately due and payable. A penalty of 25 percent shall be imposed upon the tax and fee due thereon. The tax, fees and penalty shall bear interest at the rate of ~~six percent per year~~ until paid-specified in section 7.

Sec. 33. Minnesota Statutes 1974, Section 296.15, Subdivision 2, is amended to read:

Subd. 2. **FAILURE TO PAY TAXES; PROCEEDINGS.** Upon the Changes or additions indicated by underline deletions by ~~strikeout~~

failure of any person to pay any tax or inspection fees within the time provided by sections 296.01 to 296.49, all taxes and inspection fees imposed by this chapter shall become immediately due and payable, whether or not the person has previously reported the tax and inspection fees to the commissioner, and after the default in payment the commissioner may deliver to the attorney general a certified statement of the amount due from each person hereunder whose excise tax and inspection fees are delinquent. The statement shall give the address of the person owing such tax and inspection fees, the month for which the tax and inspection fees are due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the attorney general, upon receipt of the statement, to bring an action in the district court of Ramsey County, or of the county in which the delinquent taxpayer resides, to recover the amount of such tax and inspection fees, with penalty, interest and costs and disbursements, and the action may be tried in the county in which it is brought. The judgment of the court when so obtained shall draw interest at the rate of ~~six percent per year~~ specified in section 7 and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

Sec. 34. Minnesota Statutes 1974, Section 297.07, Subdivision 4, is amended to read:

Subd. 4. **MONTHLY TAX PAYMENTS; PENALTY FOR NON-PAYMENT.** All taxes shall be due and payable not later than the eighteenth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate of ~~six percent per annum~~ specified in section 7. The commissioner in issuing his final assessment pursuant to subdivision 3 shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if he finds that the distributor has made a false and fraudulent return with intent to evade the tax imposed by sections 297.01 to 297.13, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If any such tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ~~five~~ ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay such tax within the time provided for such payment be less than \$10. The commissioner is authorized to extend the time for paying such tax without penalty for good cause shown.

Sec. 35. Minnesota Statutes 1974, Section 297.35, Subdivision 5, is amended to read:

Subd. 5. All taxes shall be due and payable not later than the eighteenth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate of ~~six percent per annum~~ specified in section 7. If any tax required to be paid under the provisions of this section is not paid within the time

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herein specified, a penalty of five percent of the unpaid tax remaining each month up to a maximum of 25 percent is herein imposed but in no event shall the penalty for failing to pay such tax within the time so provided be less than \$10. The commissioner of taxation is authorized to extend the time for paying such tax without penalty for good cause shown.

Where, under the provisions of subdivisions 2 and 3 of this section, the amount of tax due for a given period is assessed without allocating it to any particular month or months, the interest shall commence to run from the date of such assessment.

The commissioner shall have power to reduce or abate the penalty or interest when in his opinion the facts warrant such reduction or abatement. The exercise of this power shall be subject to the provisions of chapter 270 if the reduction or abatement exceeds \$500.

Sec. 36. Minnesota Statutes 1974, Section 297A.35, Subdivision 1, is amended to read:

297A.35 REFUNDS. Subdivision 1. A person who has, pursuant to the provisions of this chapter, paid to the commissioner an amount of tax for any period in excess of the amount legally due for that period, may file with the commissioner a claim for a refund of such excess. Except as provided in subdivision 4 no such claim shall be entertained unless filed within two years after such tax was paid, or within three years from the filing of the return, whichever period is the longer. The commissioner shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to such person at the address stated upon the claim. Any allowance shall include interest on the excess determined at a rate of ~~four-six~~ percent per annum from the date such excess was paid or collected until the date it is refunded or credited. If such claim is allowed in whole or in part, the commissioner shall credit the amount of the allowance against any taxes under sections 297A.01 to 297A.44 due from the claimant and for the balance of said allowance, if any, the commissioner shall issue his certificate for the refundment of the excess paid, and the commissioner of finance shall cause such refund to be paid out of the proceeds of the taxes imposed by sections 297A.01 to 297A.44, as other state moneys are expended. So much of the proceeds of such taxes as may be necessary are hereby appropriated for that purpose.

Sec. 37. Minnesota Statutes 1974, Section 297A.39, Subdivision 7, is amended to read:

Subd. 7. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of ~~eight percent per annum~~ specified in section 7 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as a part thereof.

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Sec. 38. Minnesota Statutes 1974, Section 298.09, Subdivision 4, is amended to read:

Subd. 4. If the amount of tax determined by the commissioner is subsequently found to be erroneous, the commissioner may, at any time within three years from the date the tax is certified as provided in section 298.10, redetermine the amount thereof. No such redetermination shall be made increasing the tax unless the person from whom the additional amount is due is given ten days written notice thereof and an opportunity to be heard thereon. If an order is made increasing the tax, the same proceedings shall be had as provided for occupation taxes originally determined and certified. Any person who has paid an occupation tax may apply to the commissioner within the time herein limited for a redetermination of the tax, and if the commissioner determines that the tax has been overpaid, he shall make and file an order determining the amount of such overpayment, and credit it against occupation taxes otherwise payable by the person who has overpaid the amount as so determined. If the tax is increased, interest at ~~six percent per annum~~ the rate specified in section 7 from the date payment should have been made shall be determined and paid; if the tax is reduced, interest at the rate of ~~three~~ six percent per annum from the date of overpayment shall be allowed.

Sec. 39. Minnesota Statutes 1974, Section 574.26, is amended to read:

**574.26 CONTRACTORS' BONDS.** No contract with the state, or with any municipal corporation or other public board or body thereof, for the doing of any public work, shall be valid for any purpose, unless the contractor shall give bond to the state or other body contracted with, for the use of the obligee, the state and of all persons doing work or furnishing skill, tools, machinery, or materials or insurance premiums or equipment or supplies for any camp maintained for the feeding or keeping of men and animals engaged under, or for the purpose of, such contract, conditioned for the payment, as they become due, of all just claims for such work, tools, machinery, skill, materials, insurance premiums, equipment, taxes incurred under section 290.92 or chapter 297A, and supplies for the completion of the contract in accordance with its terms, for saving the obligee harmless from all costs and charges that may accrue on account of the doing of the work specified, and for the enforcing of the terms of the bond if action is brought on the bond, including reasonable attorney's fees, in any case where such action is successfully maintained and for the compliance with the laws appertaining thereto. The penalty of such bond shall be not less than the contract price, and if after the giving of the bond the contract price should for any reason be increased, the obligee may require an additional bond, the penalty of which shall be not less than the amount of such increase, and if such additional bond be not furnished within ten days after such demand, the work on the contract shall cease until such additional bond shall have been furnished. In contracts made by the commissioner of administration or the department of highways of

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the state, the penalty of the bond shall be in such amount as the commissioner of administration or the commissioner of highways may fix, but not less than three-quarters of the contract price.

Sec. 40. Minnesota Statutes 1974, Section 574.261, Subdivision 1, is amended to read:

574.261 **SECURITY IN LIEU OF BOND.** Subdivision 1. With the approval of the commissioner of administration and where the amount of the contract is not in excess of \$5,000 a person may make a contract with the state for the doing of any public work and in lieu of giving the bond required by Minnesota Statutes, Section 574.26, submit to the commissioner of administration for deposit with the state treasurer a certified check or cashier's check in the same amount as would be required for a bond as security for protection of the state, including its tax revenues, and for all persons doing work or furnishing skills, tools, machinery, or materials under or for the purpose of executing such contract. Such deposit shall be security for the payment, as they become due, of all just claims for work, skills, tools, machinery, and materials; and for the performance and completion of the contract in accordance with its terms; and as security for all costs and charges that may accrue for the doing of the work specified and compliance with the laws relating thereto.

Sec. 41. Minnesota Statutes 1974, Section 292.11, is repealed.

Sec. 42. **EFFECTIVE DATE.** Sections 1, 2, 4, 5, and 6 are effective the day following final enactment. Sections 39 and 40 are effective August 1, 1975. All other sections are effective for taxes becoming due after July 1, 1975. Section 14 shall also be effective for monthly deposits required in the months of May or June, 1975, but which remain unpaid on July 1, 1975.

Approved June 4, 1975.

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#### CHAPTER 378—H.F.No.679

[Coded in Part]

*An act relating to crimes; regulating the possession and carrying of pistols; requiring permits to carry pistols; providing penalties; amending Minnesota Statutes 1974, Section 609.11, Subdivision 1.*

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

Section 1. [624.711] **CRIMES AND CRIMINALS; GUN CONTROL; PISTOLS; POSSESSION AND CARRYING; DECLARATION OF POLICY.** It is not the intent of the legislature to regulate shotguns, rifles and other longguns of the type commonly used for hunting and not

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