

Sec. 16. **APPROPRIATION.** The sum of \$550,000 is appropriated from the general fund to the state board of education for the purposes of this act to be available until June 30, 1979. Of this amount, \$40,000 shall be available for the year ending June 30, 1978 for the employment of two professional employees and one clerical employee beyond the existing complement of the department of education; \$40,000 shall be available for the year ending June 30, 1979 for the employment of two professional employees and one clerical employee beyond the existing complement of the department; and, \$70,000 shall be available until June 30, 1979 for the payment of other necessary expenses and contracted services incurred in connection with the administration of this act. The sum of \$400,000 shall be available until June 30, 1979 to be expended for grants to pilot bilingual education programs pursuant to sections 1 to 12 of this act.

Approved May 27, 1977.

CHAPTER 307—S.F.No.160

[Coded in Part]

An act relating to the tax court; establishing the tax court as a full time court; creating a small claims division; providing penalties; appropriating money; amending Minnesota Statutes 1976, Sections 15A.083, Subdivision 4; 124.212, Subdivision 11; 271.01, Subdivisions 1 and 4a, and by adding a subdivision; 271.02; 271.04; 271.06, Subdivisions 1, 2, 3, 4, 6, and by adding a subdivision; 271.07; 271.08; 271.09, Subdivisions 1, 2, and 3; 271.10, Subdivision 2; 271.12; 271.13; 271.15; 271.17; 271.18; 271.20; and 490.121, Subdivision 2; and Chapter 271, by adding sections; repealing Minnesota Statutes 1976, Sections 271.001; 271.01, Subdivisions 2, and 2a; 271.11; 271.14; and 271.16.

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

Section 1. Minnesota Statutes 1976, Section 15A.083, Subdivision 4, is amended to read:

Subd. 4. **TAXATION; TAX COURT OF APPEALS.** Salaries of judges of the tax court of appeals ~~.....\$10,500~~ shall be the same as the base salary for district judges as provided in subdivision 1.

Sec. 2. Minnesota Statutes 1976, Section 271.01, Subdivision 1, is amended to read:

271.01 **CREATION.** Subdivision 1. **MEMBERSHIP, APPOINTMENT, QUALIFICATIONS.** There is hereby created a tax court of appeals; ~~herein called the tax court of appeals;~~ as an independent agency of the executive branch of the government; ~~in the department of revenue, but not in any way subject to the supervision or control of the commissioner of revenue.~~ The tax court of appeals shall consist of three judges, each of whom shall be a citizen of the state, appointed by the governor, by and with the advice and consent of the senate, for a term of six years commencing at the expiration of the preceding term. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The terms of the judges shall end on the first

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Monday in January. The terms of the judges shall be staggered. The initial three terms to be filled pursuant to this act will expire on the first Monday in January in the following years: 1979, 1981, and 1983. Judges may serve until their successors are appointed and qualify. They shall be selected on the basis of their experience with and knowledge of taxation and tax laws. So far as practicable, they shall be nonpartisan in their political affiliations, and not more than two of them shall be members of or affiliated with the same political party or organization. No judge of the tax court of appeals shall hold any other office under this state or any of its political subdivisions, nor any other office or position the salary for which is paid, in whole or in part, from appropriations from the tax revenues of the state of Minnesota, nor any office under the government of the United States or any other state, nor be a candidate for an elective office under the laws of this state or of the United States or of any other state. No judge of the tax court of appeals shall hold any position of trust or profit or engage in any occupation or business which would conflict with or be inconsistent with his duties as a judge of the tax court of appeals, nor serve on or under any political committee or other organization interested in any election; nor take part, directly or indirectly, in any election campaign in the interest of any political party or other organization or any candidate or measure to be voted upon by the people. No judge of the tax court of appeals shall act as attorney, counselor, or accountant in the matter of any tax; fee, or assessment imposed or levied under authority of this state or any political subdivision thereof. The judges of the tax court shall be subject to the provisions of the Minnesota Constitution, Article VI, Section 6, the jurisdiction of the commission on judicial standards, as provided in Minnesota Statutes, Sections 490.15 and 490.16, and the provisions of the code of judicial conduct.

Sec. 3. Minnesota Statutes 1976, Section 271.01, Subdivision 4a, is amended to read:

Subd. 4a. **COMPENSATION AND EXPENSES.** Each judge of the tax court of appeals shall receive compensation for time spent in the performance of his duties. He shall also receive his actual and necessary expenses paid or incurred in the performance of his duties as provided in section ~~45A.211~~ 43.329.

Sec. 4. Minnesota Statutes 1976, Section 271.01, is amended by adding a subdivision to read:

Subd. 5. The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the tax court shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state, as defined in this subdivision, in those cases that have been appealed to the tax court and in any case that has been transferred by the district court to the tax court. The tax court shall have no jurisdiction in any case that does not arise under the tax laws of the state or in any criminal case or in any case determining or granting title to real property or in any case that is under the jurisdiction of the probate court. The small claims division of the tax court shall have no jurisdiction in any case dealing with property valuation or assessment for property tax purposes until the taxpayer has appealed the valuation or assessment to the town or city board of equalization and to the county board of equalization, except for those taxpayers whose original assessments are determined by the commissioner of revenue. The tax court

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shall have no jurisdiction in any case involving an order of the state board of equalization unless a taxpayer contests the valuation of his property. Only the taxes, aids and related matters contained in Minnesota Statutes, Chapters 60A, 124, 270, 272, 273, 274, 275, 276, 277, 278, 279, 285, 287, 288, 290, 290A, 291, 292, 293, 294, 295, 296, 297, 297A, 297B, 298, 299, 340, 473, 473F, and 477A shall be considered tax laws of this state subject to the jurisdiction of the tax court. This subdivision shall not be construed to prevent an appeal, as provided by law, to an administrative agency, board of equalization, or to the commissioner or revenue. Wherever used in chapter 271, the term commissioner shall mean the commissioner of revenue, unless otherwise specified.

Sec. 5. Minnesota Statutes 1976, Section 271.02, is amended to read:

271.02 **OFFICERS.** The judge judges of the tax court of appeals having for the time being the longest record of then continuous service as such shall be chairman choose a chief judge of the tax court of appeals; and the judge having the next longest record shall be vice-chairman. In case the periods of service of two judges be equal, the tax court of appeals shall choose between them. The chief judge of the tax court of appeals shall appoint a clerk one of the judges to serve as the administrator, who shall be custodian of its the court's files and records, and it the administrator may appoint a deputy clerk and other necessary up to two employees. The judge who is appointed the administrator may delegate his duties as administrator to the employees whom he has appointed and may select one employee to act in his place as the administrator. The clerk of district court in each county shall be the clerk of the tax court in that county. The tax court clerk in each county shall be subject to the supervision of the administrator in tax court matters.

Sec. 6. Minnesota Statutes 1976, Section 271.04, is amended to read:

271.04 **HEARINGS.** The tax court shall hold hearings and meetings at the call of the chairman or any two members; and otherwise as may be prescribed by the rules of the tax court. The principal office of the tax court shall be at the capitol, but it may sit or shall hold hearings at any other place within the state, so that taxpayers may appear before the court with as little inconvenience and expense to the taxpayer as is practicable. A majority of the tax court shall constitute a quorum for making orders or decisions or transacting other official business, and may act though one membership be vacant. One or more members may hold hearings and take testimony; to be reported for action by the tax court, when authorized by rule or order of the tax court. The tax court shall be allowed to use the district court and county court court room in all of the counties. The administrator of the tax court shall consult with the district and county court judges involved before a schedule of court room to be used by the tax court is established. Each tax court judge may hear and decide cases. Upon petition by a party to a case, or upon a motion by a tax court judge, and approval by a majority of the tax court, a case may be tried before the entire tax court. When an appeal is taken by a resident taxpayer from an order of the commissioner, venue for the case shall be, at the election of the taxpayer, in Ramsey county or in the district court judicial district in which the taxpayer resides. Venue shall be in Ramsey county for an appeal taken by a non-resident taxpayer from an order of the commissioner. Venue for all other cases arising under the tax laws of the state shall be in the same judicial district as if the case was being tried in district court.

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Sec. 7. Minnesota Statutes 1976, Section 271.06, Subdivision 1, is amended to read:

271.06 APPEALS FROM ORDERS. Subdivision 1. **MANNER.** Except as otherwise provided by law, an appeal to the tax court of appeals may be taken, in the manner herein provided, from any official order of the commissioner of revenue respecting any tax, fee, or assessment, or any matter pertaining thereto, or any matter concerning the tax laws listed in section 271.01, subdivision 5, by any person directly interested therein or affected thereby, or by any political subdivision of the state, directly or indirectly, interested therein or affected thereby, or by the attorney general in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the attorney general, upon request, shall refuse to appeal. Notwithstanding subdivision 2 of this section, when an appeal is taken to the tax court in any case dealing with property valuation, assessment, or taxation for property tax purposes, the provisions of section 274.19, subdivisions 4 and 5, section 277.011, and chapter 278 shall apply as if the appeal had been taken to the district court.

Sec. 8. Minnesota Statutes 1976, Section 271.06, Subdivision 2, is amended to read:

Subd. 2. **TIME; NOTICE; INTERVENTION.** Except as otherwise provided by law, within ~~30~~ 60 days after notice of the making and filing of such order, of the commissioner, ~~and in any case within 60 days after the making and filing of such order,~~ or upon the final determination of any matter concerning the tax laws listed in section 271.01, subdivision 5, the appellant, or his attorney, shall serve a notice of appeal upon the commissioner or the appropriate unit of government and file the original, with proof of such service, with the tax court of appeals clerk; provided, that any judge of the a tax court of appeals judge, for cause shown, may by written order extend the time for appealing for an additional period, not exceeding 30 days. In Ramsey county, notice of appeal may be filed with the tax court clerk or with the administrator. The tax court shall prescribe a filing system so that the notice of appeal filed with the tax court clerk is forwarded to the administrator. In any appeal concerning property valuation, for which the state board of equalization or commissioner of revenue has issued an order, the officer issuing the order shall be notified of the filing of an appeal. The notice of appeal shall refer to the order appealed from, state specifically the points of both law and fact which are questioned by the appellant, and state an address within the state at which service of notice and other papers in the matter may be made upon the appellant; provided, that the tax court of appeals may, upon a showing of proper cause, permit an amendment of the notice of appeal. Every appellant shall be deemed to have waived all defenses and objections not specified in the notice of appeal be in the form prescribed by the tax court. Within five days after receipt, the commissioner shall transmit a copy of the notice of appeal to the attorney general in all cases where the amount at issue exceeds \$100. The attorney general shall represent the commissioner, if requested, upon all such appeals except in cases where the attorney general has appealed in behalf of the state, or in other cases where he deems it against the interests of the state to represent the commissioner, in which event the attorney general may intervene or be substituted as an appellant in behalf of the state at any stage of the proceedings.

Sec. 9. Minnesota Statutes 1976, Section 271.06, Subdivision 3, is amended to read:

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Subd. 3. **PLEADINGS.** Within 20 days after the service and filing of the notice of appeal, unless the appeal be theretofore dismissed, the commissioner or the appropriate unit of government shall make, certify, and file with the tax court of appeals a return comprising a copy of any application or petition by which the proceeding was instituted and of any other material paper preceding the order of the commissioner or the appropriate unit of government, a copy of the order appealed from, a statement of each finding of fact and ruling of law made by the commissioner or the appropriate unit of government in the matter, and a denial, admission, or explanation with respect to each allegation of fact in the notice so far as not covered by the order or findings; provided, that any judge of the tax court of appeals, for cause shown, may extend the time for filing such return for an additional period not exceeding 30 days. Where the commissioner is required to transmit a copy of the notice of appeal to the attorney general, he shall, within ten days after service of the notice of appeal upon the commissioner, transmit to the attorney general a complete copy of all papers required for the return. Allegations of new matter in the return shall be deemed to be denied by the appellant.

Sec. 10. Minnesota Statutes 1976, Section 271.06, Subdivision 4, is amended to read:

Subd. 4. **APPEAL FEE.** At the time of filing the notice of appeal the appellant shall pay to the clerk of the tax court of appeals an appeal fee equal to ten cents for each \$100 or fraction thereof of the amount at issue in the proceedings of \$10; provided, that the minimum fee shall be \$5 and the maximum fee \$15 and that no appeal fee shall be required of the commissioner of revenue, the attorney general, the state or any of its political subdivisions. In any case where the foregoing provisions for determination of the appeal fee are inapplicable the amount of the fee shall be \$10. In small claims division, the appeal fee shall be \$2. The provisions of Minnesota Statutes, Chapter 563, providing for proceedings in forma pauperis, shall also apply for appeals to the tax court.

Sec. 11. Minnesota Statutes 1976, Section 271.06, Subdivision 6, is amended to read:

Subd. 6. **HEARINGS; DETERMINATION OF ISSUES; DEFAULT.** The tax court of appeals shall hear, consider, and determine without a jury every appeal de novo upon the issues made by the notice and the return. A tax court judge may empanel an advisory jury upon his own motion. The tax court of appeals shall hold a public hearing in every case, of which ten days' notice shall be given by mail to all parties to the proceeding. All such parties shall have an opportunity to offer evidence and arguments at the hearing; provided, that the order of the commissioner or the appropriate unit of government in every case shall be prima facie valid. When an appeal to the tax court has been taken from an order or determination of the commissioner or from the appropriate unit of government, the proceeding shall be an original proceeding in the nature of a suit to set aside or modify the order or determination. In case no appellant shall appear the tax court of appeals shall enter its order affirming the order of the commissioner of revenue or the appropriate unit of government from which the appeal was taken.

Sec. 12. Minnesota Statutes 1976, Section 271.06, is amended by adding a subdivision to read:

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Subd. 7. The rules of civil procedure for the district court of Minnesota shall govern the procedures in the tax court, where practicable. The rules of the tax court in effect on the effective date of this act shall govern until superseded. The tax court may make additional rules when the law or special circumstances so require, provided that before any additional rule is adopted, the tax court first holds a public hearing thereon, affording all affected interests an opportunity to participate, and gives notice of its intention to hold such a hearing at least 30 days prior to the date set for the hearing by United States mail, to representatives of associations or other interested groups or persons who have registered their names with the secretary of state for that purpose and in the state register. The notice in the state register shall include the full text of the rule proposed for adoption. The tax court shall make available at least one free copy of the proposed rule to any person requesting it. At the public hearing the tax court shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule proposed for adoption and fulfilling any relevant substantive or procedural requirements imposed on the tax court by law. After the hearing ends, 20 days shall be allowed for written material to be submitted and recorded in the hearing record. If the tax court approves the rule, the tax court shall promptly file it in the office of the secretary of state. A rule shall become effective 20 days after its publication in the state register unless a later date is specified in the rule. Any rule adopted after July 1, 1977, which is not published in the state register, shall be of no effect. The tax court shall be exempt from the provisions of Minnesota Statutes, Chapter 15.

Sec. 13. Minnesota Statutes 1976, Section 271.07, is amended to read:

271.07 STENOGRAPHIC REPORT; TRANSCRIPT. Except in the small claims division, the tax court of appeals shall provide for a verbatim stenographic report of all proceedings had before it upon appeals, in like manner as required by the laws relating to proceedings in district court so far as applicable. In case of a review by the supreme court of an order of the tax court of appeals, transcripts of the proceedings before the tax court of appeals shall be furnished to the tax court of appeals, the commissioner, and the attorney general upon request, and the cost thereof shall be paid out of funds appropriated therefor upon such terms as the tax court of appeals may prescribe. Transcripts shall be furnished to other parties by the reporter at the same legal rates applicable at the time to the district court reporters of Ramsey the county in which the case was tried, but no transcript shall be made for or delivered to such other party unless he shall deposit the estimated cost thereof, in advance, with the clerk, subject to payment of the actual cost therefrom as soon as determined.

Sec. 14. Minnesota Statutes 1976, Section 271.08, is amended to read:

271.08 FINDINGS OF FACT; DECISION, ENTRY OF JUDGMENT.
 Subdivision 1. The tax court of appeals, except in small claims division, shall determine every appeal by written order containing findings of fact and the decision of the tax court of appeals. A memorandum of the grounds of the decision shall be appended. A certified copy of the order shall be transmitted to the commissioner of revenue or the appropriate unit of government and filed in his that office. Notice of the entry of the order and of the substance of the decision shall be given by mail to all other parties who have appeared, and also, in all cases where the amount at issue exceeds \$100, to the attorney general.

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Subd. 2. Upon the filing of the order of the tax court of appeals, described in subdivision 1, with the clerk of the ~~district court of Ramsey county;~~ tax court, ~~within six months after such order has become final;~~ judgment shall be entered thereon in the same manner as in the case of an order of the district court; ~~as provided in section 546.27.~~

Sec. 15. Minnesota Statutes 1976, Section 271.09, Subdivision 1, is amended to read:

271.09 APPEALS AND REVIEWS. Subdivision 1. **EXCLUSIVE REMEDY.** Except as otherwise provided ~~herein in section 270.07, subdivision 1, and section 4 of this act, unless an appeal is taken to the district court,~~ the right of appeal herein provided shall be the exclusive remedy for reviewing the action of the commissioner of revenue ~~or the appropriate unit of government~~ respecting any tax, assessment, or other obligation ~~as defined in section 271.01, subdivision 5.~~ Upon any appeal taken by a taxpayer, ~~and upon any other appeal when the taxpayer shall so agree in writing filed with the clerk of the tax court of appeals,~~ the decision of the tax court of appeals, or the decision of the supreme court upon review thereof, as the case may be, shall be final and conclusive upon all parties to the proceedings as to all matters at issue determined by such decision. In all cases the decision of the tax court of appeals upon appeal, or of the supreme court upon review, as the case may be, shall stand in lieu of the order of the commissioner ~~or the appropriate unit of government~~ from which the appeal was taken; ~~and shall have like force and effect, subject to the provisions hereof.~~

Sec. 16. Minnesota Statutes 1976, Section 271.09, Subdivision 2, is amended to read:

Subd. 2. **REVIEW BY TAX COURT OF APPEALS CONCLUSIVE.** Except as otherwise hereinafter provided ~~in section 4 of this act,~~ in all cases other than those wherein the taxpayer has appealed to the tax court of appeals or has agreed in writing; ~~as herein provided,~~ that the decision upon appeal or review shall be conclusive, all rights of action or defenses in the courts of the state respecting any tax, fee, or assessment, now afforded the taxpayer by law shall be preserved; ~~provided, that no action by a taxpayer for a refund shall be instituted, proceeded with, or determined pending the determination of any appeal or review by the supreme court hereunder, except as hereinafter expressly authorized.~~ Except as otherwise hereinafter provided; in any case wherein an appeal has been taken by a person other than the taxpayer and the taxpayer has not agreed that the decision upon appeal or review shall be conclusive, the running of the time limited by law for the bringing of an action by the taxpayer shall be suspended from the filing of the notice of appeal to the tax court of appeals until the final determination of the matter by the tax court of appeals or the supreme court; as the case may be, and for 60 days thereafter.

Sec. 17. Minnesota Statutes 1976, Section 271.09, Subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS; EXCEPTIONS.** ~~In any case where,~~ At the time of the taking of an appeal to the tax court by any person or agency other than the taxpayer, the taxpayer has an existing right of action in the district court for the determination of any

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issue or issues determinable upon the appeal; such right of action shall be barred; and the determination of such issue or issues upon the appeal; or upon review by the supreme court, shall be conclusive upon the taxpayer; unless within ten days after the service of the notice of appeal upon him the taxpayer shall commence an action for the determination of such issue or issues in the proper district court, upon a verified complaint; shall pay at least the amount of the tax or other obligation conceded by the complaint taxpayer to be due, if any, when it becomes due shall file with the clerk of such court a bond, approved by the court, in at least such additional amount as might be adjudged against him; including interest, penalty, and costs; conditioned to prosecute the action with diligence and effect and to pay any amount required by or pursuant to any judgment that may be awarded against him therein; and shall serve upon the appellant and file with the clerk of the tax court a notice of the commencement of such action; with a copy of the summons and complaint therein; and of the bond required; as hereinbefore provided; provided; that this shall not relieve the taxpayer from complying with any other requirements of law. The provisions of section 274.19, subdivision 5, section 277.011, subdivision 3, and section 278.03 shall govern the filing with the tax court of an appeal dealing with property valuation, assessment, or taxation for property tax purposes, as if the appeal had been taken to the district court. Thereupon further proceedings upon the appeal shall be stayed with respect to the issue or issues involved in the action until final determination of the action; provided; that this shall not stay the appeal as to any other issues. Upon final determination of the action the appeal shall be dismissed as to any issue or issues thereby determined. If the action be dismissed or finally disposed of in any way without final determination of any issue or issues involved in the appeal; the appeal shall be reinstated and may be proceeded with as to such issue or issues with like effect as if the action had not been commenced; and the determination upon the appeal; or upon review by the supreme court; shall be final and conclusive upon the taxpayer. The running of any period of time limited by law for enforcement of any obligation against the taxpayer shall be suspended for such time as the appeal is stayed under the provisions of this subdivision and for 60 days thereafter:

Sec. 18. Minnesota Statutes 1976, Section 271.10, Subdivision 2, is amended to read:

Subd. 2. **SERVICE OF WRIT.** Within ~~20~~ 60 days after notice of the making and filing of the order of the tax court of appeals, or the making and filing of an order on a petition for rehearing, and in any case within 60 days after the making and filing of such order; the petitioner for review shall obtain from the supreme court a writ of certiorari, and shall serve the same upon the commissioner of revenue and upon all other parties appearing in the proceedings before the tax court of appeals, also upon the attorney general, unless he is the petitioner, and shall file the original, with proof of such service, with the clerk of the tax court of appeals. Every petitioner, except the attorney general, the commissioner of revenue, the state and its political subdivisions, shall also pay to the clerk the fee prescribed by rule 103.01 of the rules of civil appellate procedure which shall be disposed of in the manner provided by that rule, and file a bond or make a deposit in like manner and amount as in case of an appeal from the district court. The fee shall be disposed of as in such case. Return upon the writ shall be made to the supreme court and the matter shall be heard and determined by the court as in other certiorari cases, subject to the provisions hereof and to such rules as the court may prescribe for cases arising

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hereunder.

Sec. 19. Minnesota Statutes 1976, Section 271.12, is amended to read:

271.12 **WHEN ORDER EFFECTIVE.** No order for refundment by the commissioner of revenue, the appropriate unit of government, or the tax court of appeals shall take effect until the time for appeal therefrom or review thereof by all parties entitled thereto has expired. Otherwise every order of the commissioner, the appropriate unit of government, or the tax court of appeals shall take effect immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law; provided, that in case an order which has been acted upon, in whole or in part, shall thereafter be set aside or modified upon appeal, the determination upon appeal or review shall supersede the order appealed from and be binding upon all parties affected thereby, and such adjustments as may be necessary to give effect thereto shall be made accordingly; ~~subject to any rights of action or defense of the taxpayer, as herein provided.~~ If it be finally determined upon such appeal or review that any person is entitled to refundment of any amount which has been paid for a tax or other obligation, such amount, unless otherwise provided by law, shall be paid to him by the state treasurer, or other proper officer, out of funds derived from taxes of the same kind, if available for the purpose, or out of other available funds, if any, with interest at six percent from the date of payment of the tax, unless a different rate of interest is otherwise provided by law, in which case such other rate shall apply, upon certification by the commissioner of revenue, the appropriate unit of government, the tax court or the supreme court. If any tax, assessment, or other obligation be increased upon such appeal or review, the increase shall be added to the original amount, and may be enforced and collected therewith ~~or in separate proceedings in like manner as the original amount.~~

Sec. 20. Minnesota Statutes 1976, Section 271.13, is amended to read:

271.13 **MAY COMPEL ATTENDANCE OF WITNESSES.** The commissioner of revenue, the tax court of appeals, and ~~the several judges~~ each judge of the tax court of appeals shall, respectively, have power to subpoena and compel the attendance of witnesses and the production of books, records, papers, and documents at any hearing or investigation at any place within the state in any matter within the scope of their authority, and shall also have power to administer oaths to witnesses and to take testimony under oath. Disobedience of an order of the tax court or any ~~such~~ subpoena or refusal by any witness to be sworn or to testify upon any material matter at any such hearing or investigation shall be punishable in like manner as a contempt of the district court, in proceedings instituted upon complaint of the authority issuing the order or subpoena in the district court of the county where the order was made or the subpoena was made returnable. Subpoenas for witnesses or the production of documentary evidence shall be issued at the request of any party to the proceeding. Subpoenas may be signed by the commissioner or by any a judge of the tax court of appeals or by the secretary of the department in behalf of the commissioner or by the administrator or clerk of the tax court of appeals in behalf of the tax court of appeals, as the case may be. The commissioner of revenue shall no longer exercise this power in any matter that has been appealed to the tax court.

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Sec. 21. Minnesota Statutes 1976, Section 271.15, is amended to read:

271.15 WHO MAY ADMINISTER OATHS. The commissioner of revenue, the ~~judges each judge~~ of the tax court of appeals, the ~~secretary of the department, the clerk administrator and clerks~~ of the tax court of appeals, and all other officers and employees of the department ~~and of the tax court~~ shall, respectively, have power to administer oaths and to take and certify acknowledgments so far as they may deem necessary to the proper discharge of their respective duties, and may authenticate the same with the seal of the department or the tax court of appeals, as the case may be. The commissioner of revenue and any officer and employee of the department shall no longer exercise this power in any matter that has been appealed to the tax court.

Sec. 22. Minnesota Statutes 1976, Section 271.17, is amended to read:

271.17 SECRETARY OF DEPARTMENT AND CLERK OF TAX COURT OF APPEALS SHALL BE FILING OFFICERS. The ~~secretary commissioner~~ of the department of revenue and the ~~clerk administrator and clerks~~ of the tax court of appeals shall be the filing officers and custodians of the books, files, and records of their respective agencies. The ~~secretary commissioner, administrator, and clerk clerks~~ and their deputies shall, respectively, have power to certify and authenticate copies of the books, files, and records in their custody for all purposes in like manner and with like effect as other custodians of public records. ~~The commissioner of revenue, his deputy, and~~ Any other officer or employee of the department thereto authorized by the commissioner by written order filed with the secretary of state shall have like power to certify and authenticate copies of any books, files, and records of the department specified in the order, other than those of the tax court of appeals. ~~The chairman and vice-chairman A~~ judge of the tax court of appeals and any other officer or employee of the tax court of appeals thereto authorized by the tax court of appeals by written order filed with the ~~secretary of state administrator of the tax court~~ shall also have like power to certify and authenticate copies of any books, files, and records of the tax court of appeals specified in the order.

Sec. 23. Minnesota Statutes 1976, Section 271.18, is amended to read:

271.18 EX-OFFICERS AND EX-EMPLOYEES NOT TO REPRESENT CLIENTS; EXCEPTION; VIOLATION. ~~Except those holding office or employment prior to the passage of Laws 1939, Chapter 434, No officer, member judge, or employee of the department of revenue, including or the tax court of appeals, except referees appointed for the small claims division, shall, within one year after his office or employment has terminated, act as counsel, attorney, or agent for a taxpayer or be associated with any other person so acting in connection with any claim or proceeding pending in the department; and, No officer, judge, referee, or employee, whether appointed or employed before or after the passage of Laws 1939, Chapter 434, shall, at any time after the termination of his office or employment, act as counsel, attorney, or agent, or be associated with any person so acting, in connection with any claim or proceeding of which he has knowledge which was acquired in the course of his term of office or employment in the department or in the tax court.~~ Any violation of the provisions of this section shall be a gross misdemeanor.

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Sec. 24. Minnesota Statutes 1976, Section 271.20, is amended to read:

271.20 DECISIONS FILED WITHIN THREE MONTHS. All questions of fact and law and all matters submitted to the judges of the tax court of appeals shall be disposed of and their decision filed with the clerk of the tax court of appeals within three months after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties. No part of the salary of any judge of the tax court of appeals shall be paid unless the voucher therefor be accompanied by certificate of the judge that he has fully complied with the requirements of this section. A tax court judge shall devote his full time to the duties of his office and shall not engage in the practice of law.

Sec. 25. Minnesota Statutes 1976, Chapter 271, is amended by adding a section to read:

[271.21] SMALL CLAIMS DIVISION. Subdivision 1. There shall be a division of the tax court known as the small claims division. The judges of the tax court shall sit as judges of the small claims division. Each judge shall have authority to hear and decide the cases that he hears as small claims judge.

Subd. 2. At the election of the taxpayer, the small claims division shall have jurisdiction only in the following matters:

(a) any case concerning the valuation, assessment, or taxation of residential property homesteaded by the taxpayer; or

(b) any other case concerning the tax laws as defined in section 271.01, subdivision 5 in which the amount in controversy does not exceed \$2,500, including penalty and interest.

Subd. 3. A taxpayer may elect to appeal in the small claims division instead of appealing to the regular division of the tax court. If the taxpayer elects to appeal to the small claims division, and 30 days have elapsed since the filing of the appeal, or briefs have been filed or a hearing held on the matter, whichever occurs first, he shall not appeal to the regular division in the same matter. If he elects to appeal to the regular division, he shall not appeal to the small claims division in the same matter.

Subd. 4. At the same time that notice of the assessment, determination, or order of the commissioner or the appropriate unit of government is given to a taxpayer, the taxpayer shall be notified in writing of his right to appeal to the tax court, and if applicable, to the small claims division. In any notice of assessment, determination or order dealing with property valuation or assessment for property tax purposes, the taxpayer shall be notified in writing that he must appeal to the town or city board of equalization and to the county board of equalization before he may appeal to the small claims division of the tax court, except for those taxpayers whose original assessments are determined by the commissioner of revenue.

Subd. 5. A taxpayer shall commence a proceeding in the small claims division by
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filing with the clerk of the tax court a petition in the form prescribed by the rules of the tax court, which shall state the nature of the taxpayer's claim. Upon the filing of a petition by the taxpayer to the small claims division, the clerk of the tax court shall give notice thereof to the commissioner or to the appropriate unit of government, who shall thereafter be deemed a party to the proceeding. In the event a petition is filed, the small claims division shall thereafter have exclusive jurisdiction over the case if it meets the requirements of subdivision 2.

Subd. 6. The hearing in the small claims division shall be informal and without a jury. The judge may hear any testimony and receive any evidence he deems necessary or desirable for a just determination of the case. Sales ratio studies published by the department of revenue may be admissible as a public record without foundation. All testimony shall be given under oath. A party may appear on his own behalf or may be represented or accompanied by an attorney. No transcript of the proceedings shall be kept.

Subd. 7. At any time prior to entry of judgment, a taxpayer may dismiss a case in the small claims division by notifying the clerk of the tax court in writing. The dismissal shall be with prejudice and shall not revoke the election specified in subdivision 3.

Subd. 8. The judgment in the small claims division shall be conclusive upon all parties and may not be appealed. The court may order the commissioner or the appropriate unit of government to modify or cancel an assessment, pay or allow a refund, or take other action necessary to effectuate the judgment. Notice that no appeal may be had from a small claims judgment shall appear prominently on the petition form. The judgment shall not be considered as judicial precedent and shall have no force or effect in any other case, hearing, or proceeding. No judgment shall be rendered in a case dealing with property valuation or assessment for property tax purposes until after the state board of equalization has issued its order, if any, for that area or property.

Subd. 9. Subpoenas in a proceeding in the small claims division will be issued only at the discretion of the court.

Subd. 10. Whenever the small claims division trial docket becomes congested with appeals involving valuation, classification, and assessment of property for tax purposes, the judges of the tax court may appoint referees to hear the property tax cases appealed to the small claims division. Each referee shall have authority to hear and decide the cases that he hears as small claims referee. Each referee shall be a citizen of Minnesota and shall have experience with and knowledge of property taxation and property values. A referee shall be paid at a rate of 80 percent of the salary of the judges of the county court in that county, prorated by the length of time that he serves as a referee. Each referee shall receive his actual and necessary expenses paid or incurred in the performance of his duties.

Subd. 11. The provisions of Minnesota Statutes, Sections 271.01 to 271.20, shall apply to proceedings in the small claims division unless this section expressly provides otherwise.

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Sec. 26. Minnesota Statutes 1976, Chapter 271, is amended by adding a section to read:

[271.22] The governor may appoint the judges of the tax court serving on the effective date of this act to serve on the tax court created by this act, or he may appoint new judges who meet the qualifications provided in Minnesota Statutes, Section 271.01, Subdivision 1. Cases tried before the current tax court shall be decided within three months after the effective date of this act by the judges of the tax court who heard the case, and they shall be paid the salary specified before the effective date of this act, unless they are appointed to the tax court created by this act. The provisions of this act will not bar or change any right provided prior to its enactment to the parties in matters that have been decided by the current tax court. Any matter not tried by the current tax court prior to the date this act becomes effective shall be automatically transferred to the tax court created by this act. The taxpayer shall be given an opportunity to make his election to appeal to the small claims division or to appeal to the regular division of the tax court.

Sec. 27. Minnesota Statutes 1976, Section 124.212, Subdivision 11, is amended to read:

Subd. 11. (a) The committee shall not increase the adjusted assessed valuation, exclusive of property valuation added, improved, reclassified, or reassessed since the prior assessment, of taxable property for 1962 or any subsequent year in any school district by more than eight percent over the certified valuation established for the year immediately preceding.

(b) The sales ratio studies, or any part thereof, or any copy of the same, or records accumulated in preparation thereof, which are prepared by the commissioner of revenue for the equalization aid review committee for use in determining school aids pursuant to this section published by the department of revenue shall not be admissible in evidence in any proceeding, except that the sales ratio studies shall be admissible as a public record without the laying of a foundation in actions for review of the determination of the school aids payable under this section or in actions brought in the small claims division of the tax court.

Sec. 28. Minnesota Statutes 1976, Section 490.121, Subdivision 2, is amended to read:

Subd. 2. "Court" means any court of this state established by the Minnesota Constitution, the tax court, and any municipal, county or probate court of record.

Sec. 29. The name of the tax court of appeals is changed to the tax court. The revisor of statutes in the next and subsequent editions of Minnesota Statutes shall make the necessary changes in the statutes to reflect this name change.

Sec. 30. **APPROPRIATION.** Subdivision 1. The sums set forth in this section are appropriated from the general fund to the agencies indicated for increased costs of general operations and management resulting from this act, to be available for the fiscal year ending June 30 in the years indicated.

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	<u>1978</u>	<u>1979</u>
<u>Subd. 2. Tax Court</u>	<u>\$208,000</u>	<u>\$203,500</u>

The approved complement of the tax court is increased by the following number of persons. 1978 - 4.

Sec. 31. REPEALER. Minnesota Statutes 1976, Sections 271.001; 271.01, Subdivisions 2, and 2a; 271.11; 271.14; and 271.16 are repealed.

Sec. 32. EFFECTIVE DATE. This act shall be effective on July 1, 1977.

Approved May 27, 1977.

CHAPTER 308—S.F.No.266

[Coded in Part]

An act relating to elections; providing for training of all election officials; prescribing certain duties for the secretary of state; providing for assistance to disabled voters; amending Minnesota Statutes 1976, Sections 204A.13, Subdivision 2, and by adding subdivisions; 204A.14, Subdivision 1; 204A.34, Subdivision 2, as amended; and Chapter 204A, by adding a section.

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

Section 1. Minnesota Statutes 1976, Section 204A.13, Subdivision 2, is amended to read:

Subd. 2. ELECTIONS; TRAINING OF OFFICIALS; ELECTION LAW; INSTRUCTIONAL MATERIALS, TESTS. On or before July 1 of every even-numbered year the secretary of state shall furnish to the county auditors sufficient copies of the Minnesota election law. The secretary of state also may prepare and transmit to the county auditors ~~guides for election officers in pamphlet form; for the conduct of their duties as prescribed by law~~ detailed written instructions on election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Sec. 2. Minnesota Statutes 1976, Section 204A.13, is amended by adding subdivisions to read:

Subd. 5. CONFERENCES FOR COUNTY AUDITORS. Before each statewide primary election the secretary of state shall conduct conferences for county auditors for the purpose of giving instructions on the administration of election laws and the training of local election officials and election judges.

Subd. 6. ELECTION JUDGES TRAINING. The secretary of state may formulate a training program for election judges, and for the conduct of their duties as prescribed by law, throughout the state.

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