

the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within seven years after the commission of the offense.

(d) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3)(d) shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 3 shall be found or made and filed in the proper court within five years after the commission of the offense.

(f) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense; but the time during which the defendant shall not be an inhabitant of, or usually resident within, this state, shall not constitute any part of the limitations imposed by this section.

Sec. 5. REPEALER.

Minnesota Statutes 1986, section 115.071, subdivisions 2a and 2b, are repealed.

Sec. 6. EFFECTIVE DATE.

Sections 1 to 5 are effective August 1, 1987, and apply to violations occurring on or after August 1, 1987.

Approved May 28, 1987

CHAPTER 268—H.F.No. 529

An act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the methods of administering, collecting, and enforcing taxes; changing the computation, administration, and payment of aids, credits, and refunds; imposing taxes; limiting taxing powers; transferring governmental powers and duties; allocating bonding authority; making entitlement allocations to the cities of Minneapolis and St. Paul; repealing income tax rules; providing for the conveyance of land in Becker county; making technical corrections and clarifications; imposing and increasing fees, interest, and penalties; appropriating money; amending Minnesota Statutes 1986, sections 10A.31, subdivisions 1 and 2; 16A.15, subdivisions 1 and 6; 16A.1541; 16A.26; 16A.275; 16A.48, subdivision 1; 60A.15, subdivision 1; 60A.199, subdivisions 1, 2, 3, 5, 7, 8, 9, 10, and 11; 60A.209, subdivisions 1 and 3; 60C.06, by adding a subdivision; 61B.02, subdivision 1; 61B.03, subdivisions 8 and 10; 62E.02, subdivision 23; 67A.11, subdivision 3; 69.011, subdivisions 1 and 2; 69.021, subdivisions 1, 2, and 3; 69.54; 69.55; 79.34, subdivision 1, and by adding a subdivision; 88.49, by adding a subdivision; 116C.63, subdivision 4; 121.904, subdivisions 11a and 11b; 124.155,

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subdivision 2; 124.195, subdivision 2; 124.2131, subdivisions 1, 2, 3, 5, 6, 7, 8, and 11; 124.2139; 124.38, subdivision 8; 124A.02, subdivisions 3a, 8, and 11; 124A.035, subdivision 5; 124A.08, subdivision 5; 134.33, subdivision 1; 134.34, subdivisions 1 and 2; 176.129, subdivision 4a; 176A.08; 239.10; 270.066; 270.071, by adding a subdivision; 270.074, subdivision 3; 270.075, subdivision 1; 270.10, subdivisions 1 and 4; 270.11, subdivisions 1 and 2; 270.12, subdivisions 2 and 3; 270.13; 270.72, subdivisions 1 and 2; 270.77; 270.80, subdivision 2; 270.87; 270A.07, subdivision 1; 271.21, subdivision 2; 272.01, subdivisions 2 and 3; 272.02, subdivisions 1 and 1a; 272.115, subdivisions 2 and 4; 273.061, subdivisions 1, 8, and 9; 273.065; 273.11, subdivision 8, and by adding a subdivision; 273.1102; 273.1103; 273.1104, subdivision 1; 273.12; 273.123, subdivisions 1, 4, 5, and 7; 273.124, subdivisions 7, 8, 11, and 13; 273.13, subdivisions 15a, 22, 23, 24, 25, and 31; 273.1313, subdivisions 1, 2, and 3; 273.1314, subdivisions 9, 10, and by adding subdivisions; 273.133, subdivision 3; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1392; 273.1393; 273.165, subdivision 2; 273.19, subdivisions 1, 3, 4, and by adding a subdivision; 273.33, subdivision 2; 273.37, subdivision 2; 273.38; 273.42, subdivision 2; 274.01, subdivision 1; 274.14; 274.16; 275.07, subdivision 1; 275.125, subdivisions 9, 9b, 15, and by adding a subdivision; 275.50, subdivision 2; 275.51, subdivisions 3h and 3i; 276.04; 276.11; 277.01; 278.05, subdivision 4; 279.01, subdivision 1; 279.06; 281.17; 282.014; 282.02; 282.241; 282.33, subdivision 1; 287.05, subdivision 1; 287.09; 287.10; 287.12; 287.21, subdivision 1; 287.22; 290.01, subdivisions 3, 4, 5, 7, 19, 20, 22, and by adding subdivisions; 290.02; 290.03; 290.032, subdivisions 1 and 2; 290.05, subdivisions 1 and 2; 290.06, subdivisions 1, 2c, 2d, and by adding subdivisions; 290.067, subdivisions 1, 2, and by adding subdivisions; 290.068, subdivisions 1, 2, 3, 4, 5, and 6; 290.069, subdivisions 2a and 4b; 290.077, subdivision 1; 290.081; 290.091, subdivisions 1, 2, 3, 4, and 5; 290.095, subdivisions 1, 2, 3, 4, 7, 9, and 11; 290.10; 290.12, subdivision 2; 290.131, subdivision 1; 290.132, subdivision 1; 290.133, subdivision 1; 290.134, subdivision 1; 290.135, subdivision 1; 290.136, subdivision 1; 290.138, subdivision 3; 290.14; 290.17; 290.171; 290.20, subdivision 1, and by adding a subdivision; 290.21, subdivisions 3, 4, and 8; 290.23, subdivisions 3 and 5; 290.31, subdivisions 2, 3, 5, and by adding a subdivision; 290.34, subdivision 2; 290.35; 290.36; 290.37, subdivisions 1 and 3; 290.38; 290.39, subdivision 3; 290.41, subdivisions 2 and 3; 290.42; 290.45, subdivisions 1 and 2; 290.46; 290.48, subdivision 10; 290.491; 290.50, subdivision 1; 290.53, subdivisions 1, 2, 3a, 4, and by adding subdivisions; 290.56, subdivisions 2, 3, and 4; 290.92, subdivisions 2a, 4a, 5, 5a, 6, 7, 9, 11, 12, 13, 14, 15, 18, 24, and 25; 290.93, subdivision 10; 290.934, subdivision 2; 290.9725; 290.9726, subdivisions 1, 2, and 4; 290.974; 290A.03, subdivisions 3, 8, 13, 14, and by adding a subdivision; 290A.04, subdivision 2, and by adding subdivisions; 290A.06; 290A.011, subdivision 2; 290A.18; 290A.19; 291.131, subdivisions 1, 2, 4, and by adding a subdivision; 295.01, subdivision 10; 295.32; 295.34, subdivision 1; 295.365; 295.366, by adding a subdivision; 295.39; 295.40; 295.41; 295.43; 296.02, by adding subdivisions; 296.025, by adding subdivisions; 296.17, subdivisions 3, 7, and 11; 296.18, subdivision 7; 297.01, subdivisions 2, 4, 7, 10, and 14; 297.02, subdivisions 1 and 6; 297.03, subdivisions 1, 5, and 6; 297.04, subdivisions 4, 6, and 9; 297.07, subdivisions 1, 3, 4, and 5; 297.11, subdivisions 3 and 5; 297.13, subdivision 1; 297.23, subdivision 1; 297.26; 297.31, subdivisions 2, 3, and 7; 297.32, subdivisions 1, 2, and 8; 297.33, subdivisions 4 and 5; 297.35, subdivisions 1, 3, 5, and 8; 297.36; 297A.01, subdivisions 3, 4, 8, 11, 15, and by adding a subdivision; 297A.07; 297A.14; 297A.151; 297A.18; 297A.211, subdivision 2, and by adding a subdivision; 297A.25, subdivisions 3, 7, 11, 12, and by adding subdivisions; 297A.256; 297A.257, subdivisions 1, 2, 2a, and by adding a subdivision; 297A.26, subdivision 1, and by adding a subdivision; 297A.27, subdivision 1; 297A.275;

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297A.39, subdivisions 1, 2, 4, and by adding a subdivision; 297A.43; 297B.03; 297B.031; 297B.10; 297C.02, subdivisions 1 and 2; 297C.03, subdivision 1, and by adding a subdivision; 297C.04; 297C.05, subdivision 2; 297C.06; 297C.09; 297D.02; 297D.07; 297D.09; 297D.10; 297D.12, subdivision 1; 297D.13; 298.01, subdivision 1, and by adding subdivisions; 298.026; 298.027; 298.028, subdivisions 1; 298.03, subdivision 1; 298.031, subdivision 2; 298.08; 298.09, subdivision 1; 298.24, subdivision 1; 298.25; 298.28, subdivisions 4, 7, 10, and by adding a subdivision; 299F.21, subdivisions 1, 2, and by adding subdivisions; 325D.30; 325D.32, subdivisions 4, 10, and 11; 325D.33, subdivisions 1, 2, and by adding subdivisions; 325D.35; 325D.38, subdivision 1; 325D.40, subdivision 1; 325F.665, subdivision 3; 349.212, subdivisions 1, 4, and by adding a subdivision; 349.2121, subdivisions 4, 6, 7, and by adding subdivisions; 360.531, subdivision 2; 360.654; 462C.11, subdivisions 2 and 3; 473.446, subdivision 1; 473F.02, subdivisions 4, 12, and 17; 474A.02, subdivisions 1, 2, 3, 6, 7, 8, 12, 14, 16, 18, 19, 21, 26, and by adding subdivisions; 474A.03, subdivision 1, and by adding a subdivision; 474A.04, subdivisions 5, 6, and by adding a subdivision; 474A.13, subdivisions 1, 4, and 5; 474A.14; 474A.15; 474A.16; 474A.17; 474A.18; 474A.20; 474A.21; 475.53, subdivision 4; 475.61, subdivision 3; 477A.012, subdivision 1; 477A.013; Laws 1985, First Special Session chapter 14, article 3, section 18; proposing coding for new law in Minnesota Statutes, chapters 239; 270; 271; 272; 273; 275; 276; 290; 290A; 297; 297A; 297C; 298; 349; and 474A; repealing Minnesota Statutes 1986, sections 13.58; 60A.15, subdivision 2; 61A.49; 62E.11, subdivision 8; 62E.13, subdivision 9; 69.021, subdivision 3a; 124.2131, subdivision 4; 124.2137; 124.2139; 124.38, subdivision 10; 124A.031, subdivision 4; 270.75, subdivision 8; 270.89; 273.112, subdivision 9; 273.115; 273.116; 273.13, subdivisions 26, 27, 28, and 29; 273.1311; 273.1315; 273.135, subdivision 5; 273.1391, subdivision 4; 282.021; 287.02; 290.01, subdivisions 20a, 20b, 20d, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.077, subdivision 3; 290.079; 290.08; 290.082; 290.085; 290.088; 290.089; 290.09; 290.095, subdivisions 8 and 10; 290.12, subdivision 4; 290.13; 290.139; 290.15; 290.16; 290.165; 290.17, subdivision 1a; 290.175; 290.18; 290.19; 290.21, subdivisions 5 and 6; 290.26, subdivision 2; 290.361; 290.531; 290.9726, subdivisions 3, 5, and 6; 290A.04, subdivisions 2e and 2g; 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 295.32; 295.33; 295.34; 295.36; 295.365; 295.366; 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision 12; 296.22; 296.28; 297.07, subdivision 6; 297.23, subdivision 5; 297.35, subdivisions 4, 6, and 7; 297A.25, subdivision 13; 297A.254; 297A.26, subdivision 3; 297A.391; 297C.03, subdivisions 2 and 3; 297C.05, subdivision 4; 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; 298.04; 298.28, subdivision 14; 298.40; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; 298.67; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; 299.14; 325D.32, subdivision 12; 325D.41; 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19; Laws 1981, chapters 222, section 6, 223, section 6, subdivision 3; Laws 1985, First Special Session chapter 14, article 14, section 3; Laws 1986, chapter 391, section 3; Laws 1986, First Special Session chapter 1, article 5, section 8.

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

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ARTICLE 1

INCOME TAX

Section 1. Minnesota Statutes 1986, section 10A.31, subdivision 1, is amended to read:

Subdivision 1. Every individual resident of Minnesota who files an income tax return or a renter and homeowner property tax refund return with the commissioner of revenue may designate on their original return that \$2 \$5 shall be paid from the general fund of the state into the state elections campaign fund. If a husband and wife file a joint return, each spouse may designate that \$2 \$5 shall be paid. No individual shall be allowed to designate \$2 \$5 more than once in any year.

Sec. 2. Minnesota Statutes 1986, section 10A.31, subdivision 2, is amended to read:

Subd. 2. The taxpayer may designate that the \$2 amount designated be paid into the account of a political party or into the general account.

Sec. 3. Minnesota Statutes 1986, section 10A.31, subdivision 3, is amended to read:

Subd. 3. The commissioner of the department of revenue shall provide on the first page of the income tax form and the renter and homeowner property tax refund return a space for the individual to indicate a wish to allocate \$2 \$5 (\$4 \$10 if filing a joint return) from the general fund of the state to finance the election campaigns of state candidates. The form shall also contain language prepared by the commissioner which permits the individual to direct the state to allocate the \$2 \$5 (or \$4 \$10 if filing a joint return) to: (i) one of the major political parties; (ii) any minor political party as defined in section 10A.01, subdivision 13, which qualifies under the provisions of subdivision 3a; or (iii) all qualifying candidates as provided by subdivision 7. The renter and homeowner property tax refund return shall include instructions that the individual filing the return may designate \$2 \$5 on the return only if the individual has not designated \$2 \$5 on the income tax return.

Sec. 4. Minnesota Statutes 1986, section 290.01, subdivision 3, is amended to read:

Subd. 3. **PARTNERSHIP; PARTNER.** ~~The term terms "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this chapter, a trust or estate or a corporation; and the term "partner" includes a member in a syndicate, group, pool, joint venture or organization~~ have the meanings given in section 7701(a)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 5. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

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Subd. 3a. TRUST. The term "trust" has the meaning given in the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 6. Minnesota Statutes 1986, section 290.01, subdivision 4, is amended to read:

Subd. 4. CORPORATIONS. The term "corporation" shall include joint stock companies and corporations existing under the laws of any state or country; partnerships, limited or otherwise, the organization of which is not interrupted by the death of a general partner or by a change in the ownership of the general partner's participating interest; and the management of which is centralized in one or more persons acting in a representative capacity; associations (other than ordinary partnerships) and common-law trusts organized or conducted for profit every entity which is a corporation under section 7701(a)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, and financial institutions. A corporation's franchise is its authorization to exist and conduct business, whether created by legislation, by executive order, by a governmental agency, by contract or other private action, or by some combination thereof. Every corporation is deemed to have a corporate franchise. An entity described in section 646(b) of the Tax Reform Act of 1986, Public Law Number 99-514, shall be classified in the same manner for purposes of this chapter as it is for federal income tax purposes.

Sec. 7. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 4a. FINANCIAL INSTITUTION. (a) "Financial institution" means:

(1) a holding company;

(2) any regulated financial corporation; or

(3) any other corporation organized under the laws of the United States or organized under the laws of this state or any other state or country that is carrying on the business of a financial institution.

(b) "Holding company" means any corporation registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended.

(c) "Regulated financial corporation" means an institution, the deposits or accounts of which are insured under the Federal Deposit Insurance Act or by the Federal Savings and Loan Insurance Corporation, any institution which is a member of a Federal Home Loan Bank, any other bank or thrift institution incorporated or organized under the laws of any state or any foreign country which is engaged in the business of receiving deposits, any corporation organized under the provisions of United States Code, title 12, sections 611 to 631 (Edge Act Corporations), and any agency of a foreign depository as defined in United States Code, title 12, section 3101.

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(d) "Business of a financial institution" means:

(1) the business that a regulated financial corporation may be authorized to do under state or federal law or the business that its subsidiary is authorized to do by the proper regulatory authorities;

(2) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do which is substantially similar to the business which a corporation may be created to do under chapters 46 to 55 or any business which a corporation or its subsidiary is authorized to do by those laws;
or

(3) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do if the corporation derives more than 50 percent of its gross income from lending activities (including discounting obligations) in substantial competition with the businesses described in clauses (1) and (2). For purposes of this clause, the computation of the gross income of a corporation does not include income from nonrecurring, extraordinary items.

Sec. 8. Minnesota Statutes 1986, section 290.01, subdivision 5, is amended to read:

Subd. 5. **DOMESTIC AND FOREIGN CORPORATIONS.** The term "domestic" when applied to a corporation means a corporation created or organized in Minnesota or under its laws; and the term "foreign" when thus applied means a corporation other than a domestic corporation. ~~The existence of any domestic corporation shall be deemed the exercise by it of the privilege of existing as a corporation; the grant to any foreign corporation of the right to engage in transacting local business within this state shall be deemed the grant to it of the privilege of transacting such business within this state in corporate or organized form; and the transaction of the local business within this state by any foreign corporation shall be deemed the transaction of such business within this state in corporate or organized form.~~

Sec. 9. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 6a. **ABODE.** For purposes of section 290.01, subdivision 7, the term "abode" means a dwelling maintained by an individual, whether or not owned by the individual and whether or not occupied by the individual, and includes a dwelling place owned or leased by the individual's spouse.

Sec. 10. Minnesota Statutes 1986, section 290.01, subdivision 7, is amended to read:

Subd. 7. **RESIDENT.** The term "resident" means (1) any individual domiciled in Minnesota and any other individual maintaining an abode therein during any portion of the tax year who shall not, during the whole of such tax year, have been domiciled outside the state, except that an individual is not a "resident" for the period of time that the individual is a "qualified individual"

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as defined in section 911(d)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1986, unless, during that period, a Minnesota homestead application is filed for property in which the individual has an interest; and (2) any individual domiciled outside the state who maintains a place of abode in the state and spends in the aggregate more than one-half of the tax year in Minnesota, unless the individual is in the armed forces of the United States.

For purposes of this subdivision, presence within the state for any part of a calendar day constitutes a day spent in the state. Individuals shall keep adequate records to substantiate the days spent outside the state.

Sec. 11. Minnesota Statutes 1986, section 290.01, subdivision 19, is amended to read:

Subd. 19. **NET INCOME.** The term "net income" means the gross federal taxable income, as defined in subdivision 20; less the following deductions to the extent allowed by section 290.18; subdivision 1:

(a) for corporations; the deductions allowed by section 290.09;

(b) for individuals; the deductions allowed in section 290.088, without regard to sections 290.18; subdivision 1 if the taxpayer elects to compute the taxes under sections 290.06; subdivision 2e; paragraph (a) or (c); 290.089; and 290.09; and

(c) for estates and trusts; the deduction allowed by section 290.088; without regard to section 290.18; subdivision 1 if the taxpayer elects to compute the taxes under section 290.06; subdivision 2e; paragraph (c) section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

The Internal Revenue Code of 1986, as amended through December 31, 1986, shall be in effect for taxable years beginning after December 31, 1986.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19a to 19f mean the code in effect for purposes of determining net income for the applicable year.

Sec. 12. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19a. **ADDITIONS TO FEDERAL TAXABLE INCOME.** For individuals, estates, and trusts, there shall be added to federal taxable income:

(1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute, and

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(ii) exempt-interest dividends as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1986, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the fund or series of funds making the payment; and

(2) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code.

Sec. 13. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19b. SUBTRACTIONS FROM FEDERAL TAXABLE INCOME. For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability; and

(3) the amount paid to others not to exceed \$650 for each dependent in grades kindergarten to six and \$1,000 for each dependent in grades seven to 12, for tuition, textbooks, and transportation of each dependent in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363. As used in this clause, "textbooks" includes books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities,

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driver's education, or similar programs. In order to qualify for the subtraction under this clause the taxpayer must elect to itemize deductions under section 63(e) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 14. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19c. CORPORATIONS; ADDITIONS TO FEDERAL TAXABLE INCOME. For corporations, there shall be added to federal taxable income:

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

(2) interest upon obligations of: the United States, its possessions, its agencies, or its instrumentalities to the extent the obligations are not subject to federal tax; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; or the District of Columbia;

(3) exempt interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(4) the amount of any windfall profits tax deducted under section 164 or 471 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(5) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(6) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(7) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;

(8) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(9) the amount of any charitable contributions deducted for federal income tax purposes under section 170 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(10) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

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(11) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and

(12) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities.

Sec. 15. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19d. CORPORATIONS; MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME. For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the decrease in salary expense for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that:

(i) capital loss carrybacks shall not be allowed; and

(ii) a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

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(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 265 or 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986, in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986 and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7.

Sec. 16. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19e. DEPRECIATION MODIFICATIONS FOR CORPORATIONS. In the case of corporations, a modification shall be made for the accelerated cost recovery system. The allowable deduction for the accelerated cost recovery system is the same amount as provided in section 168 of the Internal Revenue Code with the following modifications. The modifications apply to taxable years beginning after December 31, 1986, and to property for which deductions under the Tax Reform Act of 1986, Public Law Number 99-514, are elected or apply.

(a) For property placed in service after December 31, 1980, and before January 1, 1987, 40 percent of the allowance pursuant to section 168 of the Internal Revenue Code of 1954, as amended through December 31, 1985, for 15-, 18-, or 19-year real property shall not be allowed and for all other property 20 percent shall not be allowed.

(b) For property placed in service after December 31, 1987, no modification shall be made.

(c) For property placed in service after July 31, 1986, and before January 1, 1987, for which the taxpayer elects the deduction pursuant to section 203 of the Tax Reform Act of 1986, Public Law Number 99-514, and for property placed in service after December 31, 1986, and before January 1, 1988, 15 percent of the allowance pursuant to section 168 of the Internal Revenue Code of 1986 shall not be allowed.

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(d) For property placed in service after December 31, 1980, and before January 1, 1987, for which the taxpayer elects to use the straight line method provided in section 168(b)(3), (f)(12), or (j)(1) or a method provided in section 168(e)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1986, but excluding property for which the taxpayer elects the deduction pursuant to section 203 of the Tax Reform Act of 1986, Public Law Number 99-514, the modifications provided in paragraph (a) do not apply.

(e) For property subject to the modifications contained in paragraphs (a) and (b) and Minnesota Statutes 1986, section 290.09, subdivision 7, clause (c), the following modification shall be made after the entire amount of the allowable deduction has been allowed for federal tax purposes for that property under the provisions of section 168 of the Internal Revenue Code of 1986, as amended through December 31, 1986. The remaining depreciable basis in those assets for Minnesota purposes, including the amount of any basis reduction to reflect the investment tax credit for federal purposes under sections 48(q) and 49(d) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall be a depreciation allowance computed using the straight line method over the following number of years:

- (1) three-year property, one year;
- (2) five-year and seven-year property, two years;
- (3) ten-year property, five years; and
- (4) all other property, seven years.

(f) For property placed in service after December 31, 1987, the remaining depreciable basis for Minnesota purposes that is attributable to the basis reduction for federal purposes to reflect the investment tax credit under sections 48(q) and 49(d) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall be allowed as a deduction in the first taxable year after the entire amount of the allowable deduction for that property under the provisions of section 168 of the Internal Revenue Code of 1986, has been allowed, except that where the straight line method provided in section 168(b)(3) is used, the deduction provided in this clause shall be allowed in the last taxable year in which an allowance for depreciation is allowed for that property.

(g) For qualified timber property for which the taxpayer made an election under section 194 of the Internal Revenue Code of 1986, the remaining depreciable basis for Minnesota purposes is allowed as a deduction in the first taxable year after the entire allowable deduction has been allowed for federal tax purposes.

(h) The basis of property to which section 168 of the Internal Revenue Code applies is its basis as provided in this chapter including the modifications provided in this subdivision and in Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c). The recapture tax provisions provided in sections 1245

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and 1250 of the Internal Revenue Code of 1986, as amended through December 31, 1986, apply but must be calculated using the basis provided in the preceding sentence.

(i) The basis of an asset acquired in an exchange of assets, including an involuntary conversion, is the same as its federal basis under the provisions of the Internal Revenue Code of 1986, except that the difference in basis due to the modifications in this subdivision and in Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), is a deduction as provided in paragraph (e).

Sec. 17. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19f. BASIS MODIFICATIONS AFFECTING GAIN OR LOSS ON DISPOSITION OF PROPERTY. (a) For individuals, estates, and trusts, the basis of property is its adjusted basis for federal income tax purposes except as set forth in paragraphs (f) and (g). For corporations, the basis of property is its adjusted basis for federal income tax purposes, without regard to the time when the property became subject to tax under this chapter or to whether out-of-state losses or items of tax preference with respect to the property were not deductible under this chapter, except that the modifications to the basis for federal income tax purposes set forth in paragraphs (b) to (j) are allowed to corporations, and the resulting modifications to federal taxable income must be made in the year in which gain or loss on the sale or other disposition of property is recognized.

(b) The basis of property shall not be reduced to reflect federal investment tax credit.

(c) The basis of property subject to the accelerated cost recovery system under section 168 of the Internal Revenue Code shall be modified to reflect the modifications in depreciation with respect to the property provided for in subdivision 19e. For certified pollution control facilities for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, the basis of the property must be increased by the amount of the amortization deduction not previously allowed under this chapter.

(d) For property acquired before January 1, 1933, the basis for computing a gain is the fair market value of the property as of that date. The basis for determining a loss is the cost of the property to the taxpayer less any depreciation, amortization, or depletion, actually sustained before that date. If the adjusted cost exceeds the fair market value of the property, then the basis is the adjusted cost regardless of whether there is a gain or loss.

(e) The basis is reduced by the allowance for amortization of bond premium if an election to amortize was made pursuant to Minnesota Statutes 1986, section 290.09, subdivision 13, and the allowance could have been deducted by the taxpayer under this chapter during the period of the taxpayer's ownership of the property.

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(f) For assets placed in service before January 1, 1987, corporations, partnerships, or individuals engaged in the business of mining ores other than iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(g) For assets placed in service before January 1, 1990, corporations, partnerships, or individuals engaged in the business of mining iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(h) In applying the provisions of sections 301(c)(3)(B), 312(f) and (g), and 316(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1986, the dates December 31, 1932, and January 1, 1933, shall be substituted for February 28, 1913, and March 1, 1913, respectively.

(i) In applying the provisions of section 362(a) and (c) of the Internal Revenue Code of 1986, as amended through December 31, 1986, the date December 31, 1956, shall be substituted for June 22, 1954.

(j) The basis of property shall be increased by the amount of intangible drilling costs not previously allowed due to differences between this chapter and the Internal Revenue Code.

(k) The adjusted basis of any corporate partner's interest in a partnership is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (b) to (j). The adjusted basis of a partnership in which the partner is an individual, estate, or trust is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (f) and (g).

(l) The modifications contained in paragraphs (b) to (i) also apply to the basis of property that is determined by reference to the basis of the same property in the hands of a different taxpayer or by reference to the basis of different property.

Sec. 18. Minnesota Statutes 1986, section 290.01, subdivision 20, is amended to read:

Subd. 20. **GROSS INCOME.** For tax years beginning after December 31, 1986, the term "gross income" means the gross income as defined in section 61 of the Internal Revenue Code of 1986, as amended through the date named in subdivision 19 for the applicable taxable year, plus any additional items of income taxable under this chapter but not taxable under the Internal Revenue Code, less any items included in federal gross income but of a character exempt from state income tax under the laws of the United States. For tax years beginning before January 1, 1987, except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the owner-

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ship or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source.

For tax years beginning before January 1, 1987, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in Minnesota Statutes 1986, section 290.01, subdivisions 20a to 20f. For estates and trusts the adjusted gross income for purposes of the preceding sentence shall be their federal taxable income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in Minnesota Statutes 1986, section 290.01, subdivisions 20a to 20f.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1980, and as amended by sections 302(b) and 501 to 509 of Public Law Number 97-34, shall be in effect for taxable years beginning after December 31, 1980 including the provisions of section 404 (relating to partial exclusions of dividends and interest received by individuals) of the Crude Oil Windfall Profit Tax Act of 1980, Public Law Number 96-223. The provisions of Public Law Number 96-471 (relating to installment sales) sections 122, 123, 126, 201, 202, 203, 204, 211, 213, 214, 251, 261, 264, 265, 311(g)(3), 313, 314(a)(1), 321(a), 501 to 507, 811, and 812 of the Economic Recovery Tax Act of 1981, Public Law Number 97-34 and section 113 of Public Law Number 97-119 shall be effective at the same time that they become effective for federal income tax purposes.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1981, shall be in effect for taxable years beginning after December 31, 1981. The provisions of sections 205(a), 214 to 222, 231, 232, 236, 247, 251, 252, 253, 265, 266, 285, 288, and 335 of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law Number 97-248, section 6(b)(2) and (3) of the Subchapter S Revision Act of 1982, Public Law Number 97-354, section 517 of Public Law Number 97-424, sections 101(c) and (d), 102(a), (aa), (f)(4), (g), (j), (l), 103(c), 104(b)(3), 105, 305(d), 306(a)(9) of Public Law Number 97-448, and sections 101 and 102 of Public Law Number 97-473, and section 243 of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes. The Payment-in-Kind Tax Treatment Act of 1983, Public Law Number 98-4, shall be effective at the same time that it becomes effective for federal income tax purposes.

(iii) (ii) The Internal Revenue Code of 1954, as amended through January 15, 1983, shall be in effect for taxable years beginning after December 31, 1982. The provisions of sections 905, 1708, and 1879(m) of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes.

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~~(iv)~~ (iii) The Internal Revenue Code of 1954, as amended through December 31, 1983, shall be in effect for taxable years beginning after December 31, 1983. The provisions of sections 13, 17, 25(b), 31, 32, 41 to 43, 52, 55, 56, 71 to 74, 77, 81, 82, 91, 92, 94, 101 to 103, 105 to 108, 111 to 113, 147(c), 171, 172, 174, 175, 179(a), 221, 223, 224, 421(b), 432, 481, 491, 512, 522 to 524, 554 to 557, 561, 611(a), 621 to 623, 626 to 628, 711(c), 712(d), 713(b), (e), (g), and (h), 721(a), (b), (d), (g), (i), (o), (p), (r), (t), and (w), 722(e), 1001, 1026, 1061 to 1064, 1066, 1076, 1078, and 2638(b) of the Deficit Reduction Act of 1984, Public Law Number 98-369, ~~and~~ section 1 of Public Law Number 98-611, ~~and~~ sections 1801, 1802, 1805 to 1809, 1812, 1842, 1853 to 1855, 1866, 1869 to 1873, 1875, and 1878(g) ~~and (h) of the Tax Reform Act of 1986, Public Law Number 99-514,~~ shall be effective at the same time that they become effective for federal income tax purposes.

~~(iv)~~ (iv) The Internal Revenue Code of 1954, as amended through May 25, 1985, shall be in effect for taxable years beginning after December 31, 1984. The provisions of sections 101, 102, 103, 201, and 202 of Public Law Number 99-121 ~~and sections 402, 403, 1803, 1804, 1852, and 1861 of the Tax Reform Act of 1986, Public Law Number 99-514,~~ shall be effective at the same time that they become effective for federal income tax purposes.

~~(iv)~~ (v) The Internal Revenue Code of 1954, as amended through December 31, 1985, shall be in effect for taxable years beginning after December 31, 1985.

The provisions of sections 121 to 123, 201, 202, 241, 401, 405, 411 to 413, 653, 654, 804, 811, 822, 1001, 1003, 1122, 1162, 1164, 1166, 1301, 1401, 1402, 1707, 1826, 1827, 1843, 1867, 1868, 1879(f), and 1895 of the Tax Reform Act of 1986, Public Law Number 99-514, shall be effective at the same time that they become effective for federal income tax purposes.

References to the Internal Revenue Code of 1954 in subdivisions 20a, 20b, 20e, and 20f mean the code in effect for the purpose of defining gross income for the applicable taxable year.

Sec. 19. Minnesota Statutes 1986, section 290.01, subdivision 22, is amended to read:

Subd. 22. **TAXABLE NET INCOME.** For tax years beginning after December 31, 1986, the term "taxable net income" means:

(1) for resident individuals the same as net income;

(2) for individuals who were not residents of Minnesota for the entire year, the same as net income except that the tax is imposed only on the Minnesota apportioned share of that income as determined pursuant to section 290.06, subdivision 2c, paragraph (e);

(3) for all other taxpayers, the part of net income that is allocable to Minnesota by assignment or apportionment under one or more of sections 290.17, 290.191, 290.20, 290.35, and 290.36;

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For tax years beginning before January 1, 1987, the term "taxable net income" means the net income assignable to this state pursuant to sections 290.17 to 290.20. For corporations, taxable net income is then reduced by the deductions contained in section 290.21.

Sec. 20. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 29. TAXABLE INCOME. For tax years beginning after December 31, 1986, the term "taxable income" means:

- (1) for individuals, estates, and trusts, the same as taxable net income;
- (2) for corporations, the taxable net income less
 - (i) the net operating loss deduction under section 290.095;
 - (ii) the dividends received deduction under section 290.21, subdivision 4;
 - (iii) the charitable contribution deduction under section 290.21, subdivision 3; and
 - (iv) the foreign royalty deduction under section 290.21, subdivision 8.

Sec. 21. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 30. REFERENCES TO THE INTERNAL REVENUE CODE. Except when inappropriate, a reference in this chapter (1) to the Internal Revenue Code of 1954 includes a reference to the Internal Revenue Code of 1986, and (2) to the Internal Revenue Code of 1986 includes a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

Sec. 22. [290.014] JURISDICTION TO TAX IN GENERAL.

Subdivision 1. RESIDENT INDIVIDUALS. All net income of a resident individual is subject to tax under this chapter.

Subd. 2. NONRESIDENT INDIVIDUALS. Income of a nonresident individual is subject to tax under this chapter and a nonresident individual is subject to the return filing requirements under this chapter to the extent that the income is:

- (1) allocable to this state under section 290.17, 290.191, or 290.20;
- (2) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the

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Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the estate;

(3) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character that is taxable under this chapter) in the individual's capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the trust;

(4) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the partnership; or

(5) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a shareholder of a corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 1366(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the individual directly from the source from which realized by the corporation.

Subd. 3. TRUSTS AND ESTATES. A trust or estate, whether resident or nonresident, is subject to the return filing requirements under this chapter and the income of a trust or estate is subject to tax under this chapter to the extent that the income of the trust or estate is:

(1) allocable to this state under section 290.17, 290.191, or 290.20;

(2) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of a trust or estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be

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allocable to this state under section 290.17, 290.191, or 290.20 if realized by the trust or beneficiary estate directly from the source from which realized by the distributing estate;

(3) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the beneficiary trust or estate directly from the source from which realized by the distributing trust;

(4) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the trust or estate directly from the source from which realized by the partnership; or

(5) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a shareholder of a corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 1366(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the trust or estate directly from the source from which realized by the corporation.

Subd. 4. PARTNERSHIPS. A partnership is not subject to tax under this chapter but is subject to the return filing requirements under this chapter and its partners are subject to tax under this chapter on their shares of partnership income to the extent that the income of the partnership is:

(1) allocable to this state under section 290.17, 290.191, or 290.20;

(2) taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this

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chapter) in its capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the partnership directly from the source from which realized by the estate;

(3) taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the partnership directly from the source from which realized by the trust; or

(4) taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the second tier partnership directly from the source from which realized by the first tier partnership.

Subd. 5. CORPORATIONS. A corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, is not subject to tax under this chapter, except as provided in section 290.9725, but its shareholders are, and it is subject to the return filing requirements. Corporations are subject to the return filing requirements and to tax under this chapter if the corporation so exercises its franchise as to engage in such contacts with this state as to cause part of the income of the corporation to be:

(1) allocable to this state under section 290.17, 290.191, 290.20, 290.35, or 290.36;

(2) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable

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to this state under section 290.17, 290.191, or 290.20 if realized by the corporation directly from the source from which realized by the estate;

(3) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the corporation directly from the source from which realized by the trust; or

(4) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 290.191, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 290.191, or 290.20 if realized by the corporation directly from the source from which realized by the partnership.

Sec. 23. [290.015] MINIMUM CONTACTS REQUIRED FOR JURISDICTION TO TAX TRADE OR BUSINESS.

Subdivision 1. GENERAL RULE. A person, other than a resident individual, that conducts a trade or business with its principal place of business outside of Minnesota is subject to the taxes imposed by this chapter with respect to that trade or business if the trade or business makes sales or receives other income that is assignable or apportionable to this state under section 290.17, 290.191, 290.20, 290.35 or 290.36 without regard to physical presence in this state, except as provided in subdivision 3. Activities that create jurisdiction to tax under this chapter include, but are not limited to:

- (1) having a place of business in this state;
- (2) having employees, representatives, or independent contractors conducting business activities in this state;
- (3) regularly selling products or services of any kind or nature to customers in this state who receive the product or service in this state;
- (4) regularly soliciting business from potential customers in this state;
- (5) regularly performing services from outside this state which are consumed within this state;

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(6) regularly engaging in transactions with customers in this state that involve intangible property, including loans but not property described in subdivision 3, paragraph (b), and result in income flowing to the person from within this state;

(7) owning or leasing tangible personal or real property located in this state;
or

(8) if a financial institution, regularly soliciting and receiving deposits from customers in this state.

Subd. 2. PRESUMPTION. A person is presumed, subject to rebuttal, to be engaged in regular solicitation within this state if it conducts transactions described in any of subdivision 1, clauses (3) to (6), with 20 or more residents of this state during any tax period or, if a financial institution, if the sum of its assets and the absolute value of its deposits attributable to sources within this state equals or exceeds \$5,000,000. Assets and deposits must be attributed to sources within this state by applying the principles established under section 290.191.

Subd. 3. EXCEPTIONS. (a) A person is not subject to tax under this chapter if the person is engaged in the business of selling tangible personal property and taxation of that person under this chapter is precluded by Public Law Number 86-272, United States Code, title 15, sections 381 to 384.

(b) Ownership of an interest in the following types of property shall not be a factor in determining whether the owner is subject to tax under this chapter:

(1) an interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company, as those terms are defined in the Internal Revenue Code of 1986, as amended through December 31, 1986; and

(2) an interest in a loan-backed security representing ownership in a pool of promissory notes or certificates of interest or participation in such notes which provide for payments in relation to payments or reasonable projections of payments on the notes.

Subd. 4. LIMITATIONS. This section does not (1) subject a trade or business to any regulation, including any tax, of any local unit of government or subdivision of this state if the trade or business does not own or lease tangible or real property located within this state and has no employees or independent contractors present in this state to assist in the carrying on of the business; or (2) exclude a trade or business from the filing requirements of the notice of business activities report under section 290.371.

Subd. 5. DETERMINATION AT ENTITY LEVEL. Determinations under this section with respect to trades or businesses conducted by a partnership, trust, estate, or corporation with an election in effect under section 1362 of the Internal Revenue Code, or any other entity, the income of which is or may be taxed to its owners or beneficiaries must be made with respect to the entity

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carrying on the trade or business and not with respect to owners or beneficiaries of the trade or business, the taxability of which under this chapter must be determined under section 290.014.

Sec. 24. Minnesota Statutes 1986, section 290.02, is amended to read:

290.02 EXCISE FRANCHISE TAX ON CORPORATIONS; IMPOSITION, MEASUREMENT MEASURED BY NET INCOME.

An annual excise franchise tax is hereby imposed upon every domestic corporation for the privilege of existing as a corporation during any part of its taxable year, and upon every foreign corporation doing business within this state, except those included within section 290.03, including but not limited to railroad companies for the grant to it of the privilege of transacting or for the actual transaction by it of any local business within this state during any part of its taxable year, in corporate or organized form on the exercise of the corporate franchise to engage in contacts with this state that produce gross income attributable to sources within this state is imposed upon every corporation that so exercises its franchise during the taxable year.

Contacts within this state do not include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters that are made international for navigation purposes by any treaty or agreement to which the United States is a party.

The tax so imposed shall be measured by such corporations' taxable net income and alternative minimum tax base for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

Sec. 25. Minnesota Statutes 1986, section 290.03, is amended to read:

290.03 INCOME TAX; IMPOSITION, CLASSES OF TAXPAYERS.

An annual tax for each taxable year, computed in the manner and at the rates hereinafter provided, is hereby imposed upon the taxable net income for such year of the following classes of taxpayers:

(1) Foreign corporations not taxable under section 290.02 which own property within this state or whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both;

Business within the state shall not be deemed to include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters which are made international for navigation purposes by any treaty or agreement to which the United States is a party;

(2) Resident and nonresident individuals;

(3) (2) Estates of decedents, dying domiciled within or without this state;

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(4) (3) Trusts (except those taxable as corporations) however created by residents or nonresidents or by domestic or foreign corporations.

Sec. 26. Minnesota Statutes 1986, section 290.032, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed as an addition to the annual income tax for a taxable year of a taxpayer in the classes described in section 290.03 a tax with respect to any distribution received by such taxpayer that is treated as a lump sum distribution under section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, and that is subject to tax for such taxable year under section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

Sec. 27. Minnesota Statutes 1986, section 290.032, subdivision 2, is amended to read:

Subd. 2. The amount of tax imposed by subdivision 1 shall be computed in the same way as the tax imposed under section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, except that the initial separate tax shall be an amount equal to ~~ten~~ five times the tax which would be imposed by section 290.06, subdivision 2c, if the recipient was an unmarried individual electing to deduct federal income taxes, and the taxable net income, ~~excluding the credits allowed in section 290.06, subdivision 3f,~~ was an amount equal to ~~one-tenth~~ one-fifth of the excess of

(i) the total taxable amount of the lump sum distribution for the year, over

(ii) the minimum distribution allowance, and except that references in section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, to paragraph (1)(A) thereof shall instead be references to subdivision 1 of this section.

~~The amount of any distribution from a qualified pension or profit-sharing plan which is received as a lump sum distribution shall be reduced to the extent of any contribution:~~

~~(1) not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota for a taxable year beginning in 1974 or thereafter; or~~

~~(2) designated as an employee contribution but which the employing unit picks up and which is treated as an employer contribution and which was taxed on the Minnesota return but not the federal return in the year the contribution was made.~~

Sec. 28. Minnesota Statutes 1986, section 290.05, subdivision 1, is amended to read:

Subdivision 1. The following corporations, individuals, estates, trusts, and

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organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under this chapter, in whole or in part, must establish to the satisfaction of the commissioner the taxable status of any income or activity:

(a) corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore and other ores the mining or production of which is subject to the occupation tax imposed by section 298.01; but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty ~~(as defined in section 299.02)~~ shall not be considered as income from the business of mining or producing iron ore within the meaning of this section;

(b) the United States of America, the state of Minnesota or any political subdivision of either agencies or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

~~(c) mutual insurance companies or associations; including interinsurers and reciprocal underwriters; that are exempt as provided in the Revenue Act of 1936.~~

Sec. 29. Minnesota Statutes 1986, section 290.05, subdivision 2, is amended to read:

Subd. 2. Except as provided in subdivisions 1 and 3, organizations are exempted from taxation under this chapter if they are exempt from income taxation pursuant to Subchapter F of the Internal Revenue Code. Township mutual insurance companies, as defined in chapter 67A, and nonprofit health service plan corporations, as defined in chapter 62C, are subject to taxation under chapter 290 unless they are exempt from taxation under subchapter F of the Internal Revenue Code of 1986.

Sec. 30. Minnesota Statutes 1986, section 290.06, subdivision 1, is amended to read:

Subdivision 1. **COMPUTATION, CORPORATIONS.** (a) ~~The privilege and income taxes franchise tax~~ imposed by this chapter upon corporations shall be computed by applying to their taxable net income in excess of the applicable deductions allowed under section 290.21 the following rates:

(1) ~~On the first \$25,000, for the first taxable year beginning after December 31, 1981 and before January 1, 1983 nine percent and; for taxable years beginning after December 31, 1982, six percent; provided that, in the case of a corporation having taxable net income allocated to this state pursuant to the provisions of section 290.19, 290.20, 290.35, or 290.36, the amount of income subject to this rate shall be that proportion of \$25,000 which its income allocable to this state bears to its total taxable net income; and~~

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(2) On the remainder, ~~12~~ rate of 9.5 percent adjusted as provided in paragraph (b).

(b) For taxable years beginning after December 31, 1989, the commissioner of revenue must adjust the rate provided in paragraph (a) as provided in this paragraph. By December 15, 1989, the commissioner shall prepare a forecast of revenues predicted to be raised for taxable years beginning in 1990 by the franchise tax on corporations under this chapter for taxable years beginning in 1990, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4, and the rate in effect in this subdivision were 9.5 percent. The commissioner shall adjust the rate provided in paragraph (a) so that the amount forecast to be raised by the franchise tax on corporations under this chapter, including the tax under section 290.092, subdivision 5, is equal to the amount of the forecast computed as if the tax under section 290.092, subdivisions 1 to 4, were in effect.

Sec. 31. Minnesota Statutes 1986, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. **SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns ~~who elect to deduct federal income taxes under section 290.088~~ must be computed by applying to their taxable net income the following schedule of rates:

If taxable net income is:	The tax is:
not over \$875	1.5 percent
over \$875 but not over \$1,750	\$13 plus 2.0 percent of the excess over \$875
over \$1,750 but not over \$3,500	\$31 plus 2.9 percent of the excess over \$1,750
over \$3,500 but not over \$5,375	\$81 plus 4.8 percent of the excess over \$3,500
over \$5,375 but not over \$7,000	\$171 plus 5.9 percent of the excess over \$5,375
over \$7,000 but not over \$7,125	\$267 plus 6.1 percent of the excess over \$7,000
over \$7,125 but not over \$8,875	\$275 plus 7.2 percent of the excess over \$7,125
over \$8,875 but not over \$12,375	\$401 plus 8.3 percent of the excess over \$8,875
over \$12,375 but not over \$14,000	\$691 plus 9.3 percent of the excess over \$12,375
over \$14,000 but not over \$16,000	\$842 plus 10 percent of the excess over \$14,000
over \$16,000 but not over \$21,500	\$1,042 plus 11 percent of the excess over \$16,000

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over \$21,500 but not	\$1,647 plus 11.3 percent
over \$22,125	of the excess over \$21,500
over \$22,125 but not	\$1,718 plus 12.3 percent
over \$25,500	of the excess over \$22,125
over \$25,500 but not	\$2,133 plus 12.6 percent
over \$28,500	of the excess over \$25,500
over \$28,500 but not	\$2,511 plus 13.7 percent
over \$31,750	of the excess over \$28,500
over \$31,750	\$2,957 plus 14.0 percent
	of the excess over \$31,750

(b) The income taxes imposed by this chapter upon all other married individuals filing joint returns must be computed by applying to their taxable net income the following schedule of rates:

If taxable net income is:

The tax is:

not over \$1,200

1.7 percent

over \$1,200 but not

\$20 plus 2.1 percent of the

over \$1,700

excess over \$1,200

over \$1,700 but not

\$31 plus 2.3 percent of the

over \$2,700

excess over \$1,700

over \$2,700 but not

\$54 plus 3.3 percent of

over \$5,600

the excess over \$2,700

over \$5,600 but not

\$150 plus 5.3 percent of

over \$9,100

the excess over \$5,600

over \$9,100 but not

\$335 plus 6.8 percent of

over \$12,600

the excess over \$9,100

over \$12,600 but not

\$573 plus 8.5 percent of

over \$17,800

the excess over \$12,600

over \$17,800 but not

\$1,015 plus 9.3 percent of

over \$30,800

the excess over \$17,800

over \$30,800

\$2,224 plus 9.9 percent of

the excess over \$30,800

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

if taxable income is:

the tax is:

not over \$4,000

4 percent

over \$4,000, but not

\$160 plus 6 percent of the

over \$11,000

excess over \$4,000

over \$11,000, but not

\$580 plus 8 percent of the

over \$21,000

excess over \$11,000

over \$21,000

\$1,380 plus 9 percent of

the excess over \$21,000

(2) For taxable years beginning after December 31, 1987

if taxable income is:

the tax is:

not over \$19,000

6 percent

over \$19,000

\$1,140 plus 8 percent of

the excess over \$19,000;

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plus an amount equal to ten percent of the tax paid by the taxpayer under section 1(g) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(e) ~~(b)~~ The income taxes imposed by this chapter upon unmarried individuals, married individuals filing separate returns, estates, and trusts ~~that elect to deduct federal income taxes under section 290.088~~ must be computed by applying to taxable net income the following schedule of rates:

<u>if taxable net income is:</u>	<u>The tax is:</u>
not over \$700	1.3 percent
over \$700 but not over \$1,400	\$9 plus 1.9 percent of the excess over \$700
over \$1,400 but not over \$2,800	\$22 plus 3.2 percent of the excess over \$1,400
over \$2,800 but not over \$4,300	\$67 plus 5.4 percent of the excess over \$2,800
over \$4,300 but not over \$5,700	\$148 plus 6.9 percent of the excess over \$4,300
over \$5,700 but not over \$7,100	\$245 plus 8.4 percent of the excess over \$5,700
over \$7,100 but not over \$9,900	\$362 plus 9.8 percent of the excess over \$7,100
over \$9,900 but not over \$12,800	\$637 plus 11.1 percent of the excess over \$9,900
over \$12,800 but not over \$15,400	\$959 plus 12.4 percent of the excess over \$12,800
over \$15,400 but not over \$19,400	\$1,281 plus 13.6 percent of the excess over \$15,400
over \$19,400	\$1,825 plus 14 percent of the excess over \$19,400

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$3,000</u>	<u>4 percent</u>
<u>over \$3,000, but not over \$9,000</u>	<u>\$120 plus 6 percent of the excess over \$3,000</u>
<u>over \$9,000, but not over \$16,000</u>	<u>\$480 plus 8 percent of the excess over \$9,000</u>
<u>over \$16,000</u>	<u>\$1,040 plus 9 percent of the excess over \$16,000</u>

(2) For taxable years beginning after December 31, 1987

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$13,000</u>	<u>6 percent</u>
<u>over \$13,000</u>	<u>\$780 plus 8 percent of the excess over \$13,000;</u>

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plus an amount equal to ten percent of the tax paid by the taxpayer under section 1(g) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(d) (c) The income taxes imposed by this chapter upon ~~all other~~ unmarried individuals, ~~married individuals filing separate returns, estates, and trusts~~ qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, must be computed by applying to taxable net income the following schedule of rates:

If taxable net income is:

The tax is:

not over \$300

1 percent

over \$300 but not

\$3 plus 1.3 percent of the

over \$600

excess over \$300

over \$600 but not

\$7 plus 1.6 percent of the

over \$900

excess over \$600

over \$900 but not

\$12 plus 2.1 percent of

over \$1,300

the excess over \$900

over \$1,300 but not

\$20 plus 2.7 percent of

over \$2,000

the excess over \$1,300

over \$2,000 but not

\$39 plus 3.7 percent of

over \$2,800

the excess over \$2,000

over \$2,800 but not

\$69 plus 4.5 percent of

over \$4,300

the excess over \$2,800

over \$4,300 but not

\$136 plus 6.1 percent of

over \$6,400

the excess over \$4,300

over \$6,400 but not

\$264 plus 7.5 percent of

over \$9,400

the excess over \$6,400

over \$9,400 but not

\$489 plus 9.3 percent of

over \$16,200

the excess over \$9,400

over \$16,200

\$1,122 plus 9.9 percent

of the excess over \$16,200

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

if taxable income is:

the tax is:

not over \$3,500

4 percent

over \$3,500, but not

\$140 plus 6 percent

over \$10,000

of the excess over \$3,500

over \$10,000, but not

\$530 plus 8 percent

over \$18,500

of the excess over \$10,000

over \$18,500

\$1,210 plus 9 percent

of the excess over \$18,500

(2) For taxable years beginning after December 31, 1987

if taxable income is:

the tax is:

not over \$16,000

6 percent

over \$16,000

\$960 plus 8 percent

of the excess over \$16,000;

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plus an amount equal to ten percent of the tax paid by the taxpayer under section 1(g) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(e) (d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

(f) (e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) The numerator is the individual's Minnesota sourced federal adjusted gross income, computed as if the as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1986, after applying the allocation and assignability provisions of section 290.081, clause (a), 290.17, subdivision 2, or 290.174 applied; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 32. Minnesota Statutes 1986, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. **INFLATION ADJUSTMENT OF BRACKETS.** (a) For taxable years beginning after December 31, ~~1985~~ 1990, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, ~~1984~~ 1987, and before January 1, ~~1986~~ 1991. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets by the percentage determined under pursuant to the provisions of section 1(f) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, except that in section 1(f)(3)(B) the word "1984 1989" shall be substituted for the word "1983 1987." For 1991, the commissioner shall then determine the percent

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change from the 12 months ending on ~~September 30, 1984~~ August 31, 1989, to; ~~for 1986, the 12 months ending on September 30, 1985~~ August 31, 1990, and in each subsequent year, from the 12 months ending on ~~September 30, 1984~~ August 31, 1989, to the 12 months ending on ~~September 30~~ August 31 of the ~~preceding~~ preceding year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the administrative procedure act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets; ~~the maximum standard deduction amount; and the personal credit amounts.~~

Sec. 33. Minnesota Statutes 1986, section 290.06, is amended by adding a subdivision to read:

Subd. 20. ELDERLY AND DISABLED PERSONS. An individual may take a credit against the tax due under this chapter equal to 40 percent of the credit for which the individual qualifies under section 22 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 34. Minnesota Statutes 1986, section 290.06, is amended by adding a subdivision to read:

Subd. 21. ALTERNATIVE MINIMUM TAX. (a) A corporation is allowed a credit for alternative minimum tax previously paid for any taxable year in which the corporation has no tax liability under section 290.092, and has an alternative minimum tax credit carryover from a previous year. The credit shall be equal to the lesser of (1) the excess of the tax under section 290.06 for the taxable year over the amount computed under section 290.092, subdivision 1, clause (a), for the taxable year, or (2) the alternative minimum tax credit carryover to the taxable year.

(b) The tax imposed under section 290.092 for any taxable year is a credit for alternative minimum tax previously paid which is a carryover to each of the 15 taxable years succeeding the taxable year. The entire amount of the alternative minimum tax credit must be carried to the earliest of the taxable years to which such amount may be carried. The portion of the alternative minimum tax credit which is carried to each of the other taxable years to which the credit may be carried is the excess, if any, of the credit over the amount allowable under paragraph (a) for each of the taxable years to which the credit may be carried. In each taxable year in which a credit is allowable under paragraph (a), the credit for alternative minimum tax previously paid must be used beginning with the earliest taxable year from which the credit may be carried.

Sec. 35. Minnesota Statutes 1986, section 290.067, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT OF CREDIT.** A taxpayer may take as a credit against the tax due from the taxpayer and a spouse, if any, under this chapter an

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amount equal to the dependent care credit for which the taxpayer is eligible pursuant to the provisions of section 21 of the Internal Revenue Code of 1954, as amended through December 31, 1985, subject to the limitations provided in subdivision 2.

Sec. 36. Minnesota Statutes 1986, section 290.067, subdivision 2, is amended to read:

Subd. 2. **LIMITATIONS.** The credit for expenses incurred for the care of each dependent shall not exceed \$720 in any taxable year, and the total credit for all dependents of a claimant shall not exceed \$1,440 in a taxable year. The maximum total credit shall be reduced according to the amount of the ~~combined federal adjusted gross income, plus the ordinary income portion of any lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, as amended through December 31, 1985,~~ of the claimant and a spouse, if any, as follows:

income up to ~~\$10,000~~ \$12,200, \$720 maximum for one dependent, \$1,440 for all dependents;

income of ~~\$10,001 to \$11,000~~, \$660 maximum for one dependent, \$1,320 for all dependents;

income over ~~\$11,000~~ \$12,200, the maximum credit for one dependent shall be reduced by ~~\$10~~ \$12 for every \$200 of additional income, ~~\$20~~ \$24 for all dependents;

for income of \$24,001 and over, no credit shall be received.

The commissioner shall construct and make available to taxpayers tables showing the amount of the credit at various levels of income and expenses. The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transitions between expenses and income brackets.

Sec. 37. Minnesota Statutes 1986, section 290.067, is amended by adding a subdivision to read:

Subd. 2a. INCOME. For purposes of this section, "income" means the sum of the following:

(1) the greater of federal adjusted gross income as defined in section 62 of the Internal Revenue Code or zero; and

(2) the sum of the following amounts to the extent not included in clause (1):

(i) all nontaxable income;

(ii) the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (1) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;

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(iii) an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;

(iv) cash public assistance and relief;

(v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vi) interest received from the federal or a state government or any instrumentality or political subdivision thereof;

(vii) workers' compensation;

(viii) nontaxable strike benefits;

(ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

(x) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code; and

(xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code; or deferred compensation plan under section 457 of the Internal Revenue Code.

Sec. 38. Minnesota Statutes 1986, section 290.067, is amended by adding a subdivision to read:

Subd. 6. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 39. Minnesota Statutes 1986, section 290.068, subdivision 1, is amended to read:

Subdivision 1. **CREDIT ALLOWED.** ~~In addition to the deduction provided in section 290.09,~~ A corporation, other than a corporation with a valid election in effect under section 290.9725, is allowed a credit against the tax imposed by this chapter for the taxable year equal to:

(a) ~~42.5~~ 5 percent of the first \$2 million of the excess (if any) of

(1) the qualified research expenses for the taxable year, over

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(2) the base period research expenses; and

(b) ~~6.25~~ 2.5 percent on all of such excess expenses over \$2 million.

Sec. 40. Minnesota Statutes 1986, section 290.068, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given.

(a) "Qualified research expenses" means (i) qualified research expenses as defined in section ~~30~~ 41(b) and (e) of the Internal Revenue Code, except it shall not include expenses incurred for basic research conducted outside the state of Minnesota pursuant to section ~~30~~ 41(e); or (ii) contributions to a nonprofit corporation established and operated pursuant to the provisions of chapter 317 for the purpose of promoting the establishment and expansion of business in this state, provided the contributions are invested by the nonprofit corporation for the purpose of providing funds for small, technologically innovative enterprises in Minnesota during the early stages of their development.

(b) "Qualified research" means qualified research as defined in section ~~30~~ 41(d) of the Internal Revenue Code, except that the term shall not include qualified research conducted outside the state of Minnesota.

(c) "Base period research expenses" means base period research expenses as defined in section ~~30~~ 41(c) of the Internal Revenue Code, except that "December 31, 1981" shall be substituted for "June 30, 1981" in subparagraph (B) of paragraph (2) and the definitions contained in clauses (a) and (b) shall apply.

(d) "Internal Revenue Code" means the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1984~~ 1986.

Sec. 41. Minnesota Statutes 1986, section 290.068, subdivision 3, is amended to read:

Subd. 3. **LIMITATION; ~~CARRYBACK AND CARRYOVER~~.** (a)(1) The credit for the taxable year shall not exceed the liability for tax. "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) In the case of a corporation which is a partner in a partnership, the credit allowed for the taxable year shall not exceed the lesser of the amount determined under clause (1) for the taxable year or an amount (separately computed with respect to the corporation's interest in the trade or business or entity) equal to the amount of tax attributable to that portion of taxable income which is allocable or apportionable to the corporation's interest in the trade or business or entity.

(b) If the amount of the credit determined under this section for any taxable

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year exceeds the limitation under clause (a), the excess shall be a research credit carryback to each of the three preceding taxable years and a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this clause shall not exceed the taxpayer's liability for tax less the research credit for the taxable year.

For the purposes of sections 290.46 and 290.50, if the claim for refund relates to an overpayment attributable to a research and experimental expenditure credit carryback under this subdivision, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period of limitation shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the taxable year in which the research and experimental expenditure credit arises which results in the carryback, plus any extension of time granted for filing the return, but only if the return was filed within the extended time. With respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, the period of limitations shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the subsequent taxable year, plus any extension of time granted for filing the return, but only if the return was filed within the extended time. In any case in which a taxpayer is entitled to a refund in a carryback year due to the carryback of a research and experimental expenditure credit, interest shall be computed only from the end of the taxable year in which the credit arises. With respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, interest shall be computed from the end of the subsequent taxable year.

Sec. 42. Minnesota Statutes 1986, section 290.068, subdivision 4, is amended to read:

Subd. 4. **PARTNERSHIPS.** In the case of partnerships the credit shall be allocated in the same manner provided by section 30 41(f)(2) of the Internal Revenue Code.

Sec. 43. Minnesota Statutes 1986, section 290.068, subdivision 5, is amended to read:

Subd. 5. **ADJUSTMENTS; ACQUISITIONS AND DISPOSITIONS.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period shall be adjusted in the same manner provided by section 30 41(f)(3) of the Internal Revenue Code, except that "December 31, 1980" shall be substituted for "June 30, 1980."

Sec. 44. Minnesota Statutes 1986, section 290.068, subdivision 6, is amended to read:

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Subd. 6. **ADDITIONAL CREDIT.** (a) For taxable years beginning after December 31, 1986, and before January 1, 1988, in addition to the credit allowed by subdivision 1, a credit shall be allowed against the tax imposed by this chapter for the taxable year equal to ~~42.5~~ five percent of the amount of qualified research expenses paid or incurred for qualified research performed by a Minnesota-domiciled corporation for or on behalf of one or more of its wholly-owned subsidiary corporations which has in effect during the taxable year a valid election under section 936 of the Internal Revenue Code, including any expenses paid or incurred that are attributable to a wholly-owned subsidiary corporation by reason of paragraph (h) of section 936 for purposes of determining each corporation's combined taxable income.

(b) The maximum credit allowed by clause (a) for the taxable year shall be the excess of

(1) the total amount of tax imposed by this chapter on all members of the unitary group for the taxable year, over

(2) the sum of (A) the total amount of tax which would be imposed on the unitary group, if the corporation or corporations with valid elections under section 936 of the Internal Revenue Code were excluded from the unitary group, plus (B) the tax, if any, which would be imposed on the corporation or corporations with valid elections under section 936 of the Internal Revenue Code without regard to the other members of the unitary group.

(c)(1) If the amount of the credit determined under clause (a) for any taxable year exceeds the limitation provided in clause (b), the excess shall be a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried.

(2) The amount of the unused credit which may be added under subparagraph (1) for any preceding taxable year shall not exceed the amount by which the limitation provided by clause (b) for the taxable year exceeds the sum of

(i) the credit allowable under this subdivision for the taxable year, and

(ii) the amounts, which, by reason of subparagraph (1), are added to the amount allowable for the taxable year and which are attributable to taxable years preceding the taxable year in which an excess credit arises.

Sec. 45. Minnesota Statutes 1986, section 290.069, subdivision 2a, is amended to read:

Subd. 2a. **RECAPTURE; TECHNOLOGY TRANSFER CREDIT.** (a) A corporation which receives a tax reduction pursuant to Minnesota Statutes 1986, section 290.069, subdivision 2 shall repay to the commissioner an amount of the tax reduction as specified in paragraph (b) if any of the following conditions occur within a three-year period after the date of transfer of the technology.

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- (1) The transferee ceases operations in the technology corridor project area.
- (2) The transferee becomes a subsidiary or affiliate of the transferor.
- (3) The transferee sells, transfers, or otherwise disposes of the rights to technology.
- (4) The transferee fails to make the necessary payments or expenditures required by Minnesota Statutes 1986, section 290.069, subdivision 2, paragraph (g).
- (5) The transferee grants an interest to the transferor in violation of Minnesota Statutes 1986, section 290.069, subdivision 2, paragraph (h).

(b) The amount of the repayment is determined pursuant to the following schedule:

Occurrence of event causing recapture	Repayment portion
Less than six months	100 percent
Six months or more but less than 12 months	83-1/3 percent
12 months or more but less than 18 months	66-2/3 percent
18 months or more but less than 24 months	50 percent
24 months or more but less than 30 months	33-1/3 percent
30 months or more but less than 36 months	16-2/3 percent

Sec. 46. Minnesota Statutes 1986, section 290.069, subdivision 4b, is amended to read:

Subd. 4b. **MULTISTATE BUSINESSES.** If a qualified small business is engaged in a business partly within and partly without the state, the credit allowable pursuant to subdivision 2 for technology transferred to the business must be apportioned. The credit determined pursuant to Minnesota Statutes 1986, section 290.069, subdivision 2 must be multiplied by the arithmetical average of the qualified small business' property and payrolls, determined as provided by section 290.19, subdivision 1, clauses (2)(a)(2) and (2)(a)(3), using data from the most recently available year. After the technology is transferred, the qualified small business shall certify to the transferor taxpayer its factors under section 290.19, subdivision 1, clauses (2)(a)(2) and (2)(a)(3) for each of the succeeding two tax years. If the factors for either of these years would result in at least a 25 percent change in the allowable credit, the taxpayer shall file an amended return repaying or claiming the difference in the credit. The preceding sentence does not apply if the qualified small business ceases operations in Minnesota and the recapture provisions of subdivision 2a or 4a apply.

Sec. 47. Minnesota Statutes 1986, section 290.077, subdivision 1, is amended to read:

Subdivision 1. **INCLUSION IN GROSS INCOME.** Notwithstanding any other provision of law, income in respect of a decedent ~~shall be included in gross income in accordance with the method~~ set forth in section 691(a) of the Internal

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Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall be included in the gross income of the estate in the year any right to receive it is transferred to a nonresident by the personal representative of an estate. The fair market value of the right at the date of the transfer shall be included in the gross income of the estate for the year in which the transfer occurs and the value of the right shall not be allowed as a deduction in computing the taxable net income of the estate. The estate shall not include the value of the right in its gross income and the personal representative shall be relieved of any further liability with respect to that right if the nonresident: (1) includes the fair market value of the right (as of the date the right is received) in the nonresident's gross income for the year the right is received and pays the tax thereon; or (2) elects to include the amount received in payment of the right in the nonresident's gross income for the year in which the payment is received and pays the tax on it in the same manner as a resident of this state and files a bond with the commissioner of revenue during the year the right is received, in the form and in the amount as the commissioner considers necessary to assure payment of the tax. A bond required under clause (2) shall be considered sufficient if in an amount equivalent to the tax that would be due if the method provided in clause (1) were followed.

Sec. 48. Minnesota Statutes 1986, section 290.081, is amended to read:

290.081 INCOME OF NONRESIDENTS, RECIPROCITY; CREDIT FOR TAXES PAID TO ANOTHER STATE.

(a) The compensation received for the performance of personal or professional services within this state by an individual whose residence, place of abode, and place customarily returned to at least once a month is in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein, or

(b) If any taxpayer who is a resident of this state, or a domestic corporation or corporation commercially domiciled therein, has become liable for taxes on or measured by net income to another state or a province or territory of Canada upon, if the taxpayer is an individual, or if the taxpayer is an athletic team and all of the team's income is apportioned to Minnesota, any income, or if it is a corporation, estate, or trust, upon income derived from the performance of personal or professional services within such other state or province or territory of Canada and subject to taxation under this chapter the taxpayer shall be entitled to a credit against the amount of taxes payable under this chapter, of such proportion thereof, as such gross income subject to taxation in such state or province or territory of Canada bears to the taxpayer's entire gross income subject to taxation under this chapter; provided (1) that such credit shall in no event exceed the amount of tax so paid to such other state or province or territory of Canada on the gross income earned within such other state or province or territory of Canada and subject to taxation under this chapter, and

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(2) the allowance of such credit shall not operate to reduce the taxes payable under this chapter to an amount less than would have been payable if the gross income earned in such other state or province or territory of Canada had been excluded in computing net income under this chapter. A taxpayer who is a resident of this state pursuant to section 290.01, subdivision 7a, clause (2), and is subject to income tax as a resident in the state of the individual's domicile is not allowed this credit unless the state of domicile does not allow a similar credit.

(c) The commissioner shall by rule determine with respect to gross income earned in any other state the applicable clause of this section. When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of clause (a) shall not apply. As long as the provisions of clause (a) apply between Minnesota and Wisconsin, the provisions of clause (a) shall apply to any individual who is domiciled in Wisconsin.

(d) "Tax So Paid" as used in this section means taxes on or measured by net income payable to another state or province or territory of Canada on income earned within the taxable year for which the credit is claimed, provided that such tax is actually paid in that taxable year, or subsequent taxable years.

For purposes of clause (b), where a Minnesota resident reported an item of income to Minnesota and is assessed tax in another state or a province or territory of Canada on that same item of income after the Minnesota statute of limitations has expired, the taxpayer shall be allowed to receive a credit for that year based on clause (b), notwithstanding the provisions of sections 290.49, 290.50, and 290.56. For purposes of the preceding sentence, the burden of proof shall be on the taxpayer to show entitlement to a credit.

(e) For the purposes of clause (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without clause (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without clause (a), or vice versa, then the state with the net revenue loss resulting from clause (a) shall receive from the other state the amount of such loss. This provision shall be effective for all years beginning after December 31, 1972. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.

Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The commissioner of revenue is authorized to enter into agreements with the state of Wisconsin specifying the reciprocity payment due date, conditions constituting delinquency, interest rates, and a method for computing interest due on any delinquent amounts.

If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chair.

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Such board may administer oaths, take testimony, subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

Notwithstanding the provisions of section 290.61, the commissioner may furnish copies of returns, reports, or other information to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of making a determination as to the amount to be paid the other state under the provisions of this section. Prior to the release of any information under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that the person will protect the confidentiality of the returns and information revealed thereby to the extent that it is protected under the laws of the state of Minnesota.

Sec. 49. Minnesota Statutes 1986, section 290.091, subdivision 1, is amended to read:

Subdivision 1. **IMPOSITION OF TAX.** In addition to all other taxes imposed by this chapter a tax is imposed on individuals, estates, and trusts equal to the excess (if any) of

(a) an amount equal to ~~four~~ six percent of alternative minimum taxable income after subtracting the exemption amount, over

(b) the regular tax for the taxable year.

Sec. 50. Minnesota Statutes 1986, section 290.091, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal ~~adjusted gross~~ alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal tax preference items alternative minimum taxable income, but excluding the portion of the charitable contribution deduction that constitutes an item of tax preference under section 57(a)(6) of the Internal Revenue Code;

(3) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision ~~20a~~, clauses (1), (3), and (4) 19a, clause (1); less the sum of

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(i) interest income as defined in section 290.01, subdivision 20b 19b, clause (1);

(ii) an overpayment of state income tax as provided by section 290.01, subdivision 20b 19b, clause (4) (2); and

(iii) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed qualified net investment income, as defined in section 55(e)(5) 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(iv) to the extent included in the taxpayer's federal adjusted gross income, gain excluded from gross income under section 290.01, subdivision 20b, clause (13).

In the case of an estate or trust, adjusted gross alternative minimum taxable income must be modified computed as provided in section 55(e)(6)(B) 59(c) of the Internal Revenue Code and reduced by the deductions allowed under sections 642(e), 651(a), and 661(a) of the Internal Revenue Code.

(b) "Federal tax preference items" means items as defined in sections 57, 58, and 443(d) of the Internal Revenue Code, modified as follows:

(1) The capital gain preference item shall be reduced

(i) where the gain would be modified because some or all of the assets have a higher basis for Minnesota purposes than for federal purposes; and

(ii) to the extent it includes gain excluded from gross income under section 290.01, subdivision 20b, clause (13).

(2) In the case of a nonresident individual, or an estate or trust, with a net operating loss that is a larger amount for Minnesota than for federal, the capital gain preference item shall be reduced to the extent it was reduced in the allowance of the net operating loss.

(3) Federal preference items from the business of mining or producing iron ore and other ores which are subject to the occupation tax and exempt from taxation under section 290.05, subdivision 1, shall not be a preference item for Minnesota.

(4) Other federal preference items to the extent not allowed in the computation of Minnesota gross income, as determined by the commissioner, are not preference items for Minnesota.

(e) "Internal Revenue Code" means the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

(c) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

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(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

Sec. 51. Minnesota Statutes 1986, section 290.091, subdivision 3, is amended to read:

Subd. 3. **EXEMPTION AMOUNT.** For purposes of computing the alternative minimum tax, the exemption amount is:

(a) \$40,000 in the case of a married couple filing a joint return;

(b) \$30,000 in the case of an individual who is not married, as defined in section 143 of the Internal Revenue Code;

(c) \$20,000 in the case of

(1) an estate or trust or

(2) a married individual who files a separate tax return the exemption determined under section 55(d) of the Internal Revenue Code, except that alternative minimum taxable income as determined under this section must be substituted in the computation of the phase out under section 55(d)(3).

Sec. 52. Minnesota Statutes 1986, section 290.091, subdivision 4, is amended to read:

Subd. 4. **PART YEAR RESIDENTS; ESTATES AND TRUSTS.** (a) An individual who is not a Minnesota resident for the entire year must compute alternative minimum tax liability using a regular tax liability determined under section 290.06, subdivision 2c, paragraph ~~(f)~~ (e), without regard to the provision for allocation to Minnesota. The resulting alternative minimum tax liability must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph ~~(f)~~ (e).

(b) In the case of an estate or trust, the alternative minimum tax liability must be computed by multiplying alternative minimum taxable income and the exemption amount by a fraction, the numerator of which is the amount of the taxpayer's alternative minimum taxable income allocated to this state pursuant to the provisions of sections 290.17 to 290.20, and the denominator of which is the taxpayer's total alternative minimum taxable income.

Sec. 53. Minnesota Statutes 1986, section 290.091, subdivision 5, is amended to read:

Subd. 5. **TAX BENEFIT RULE.** The tax benefit rule contained in section ~~58(h)~~ 59(g) of the Internal Revenue Code applies to the computation of the tax under this section only to the extent that it determines if there is an item of tax preference for purposes of subdivision 2, clause ~~(a)(2)~~ (a)(1).

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Sec. 54. **[290.092] ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.**

Subdivision 1. IMPOSITION OF TAX. For taxable years beginning after December 31, 1986, and before January 1, 1990, in addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, of:

(1) .001 multiplied by the alternative minimum tax base, over

(2) the amount of tax computed under this chapter without regard to this section.

Subd. 2. EXEMPTIONS. Corporations subject to tax under sections 290.05, subdivision 3; or 60A.15, subdivision 1 and 290.35; real estate investment trusts; regulated investment companies; cooperatives taxable under subchapter T of the Internal Revenue Code of 1986 or organized under chapter 308 or a similar law of another state; and entities having a valid election in effect under section 1362 or 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, are not subject to the tax imposed in subdivision 1 or subdivision 5.

Subd. 3. ALTERNATIVE MINIMUM TAX BASE. The alternative minimum tax base equals the sum of:

(1) the total amount of Minnesota sales and receipts;

(2) the amount of the taxpayer's total Minnesota property; and

(3) the taxpayer's total Minnesota payrolls;

less the exemption amount, if any.

Subd. 4. DEFINITIONS. (a) "Minnesota sales and receipts" means the total sales apportioned to Minnesota pursuant to section 290.191, subdivision 5, the total receipts attributed to Minnesota pursuant to section 290.191, subdivisions 6 to 8, and/or the total sales or receipts apportioned or attributed to Minnesota pursuant to any other apportionment formula applicable to the taxpayer.

(b) "Minnesota property" means total Minnesota tangible property as provided in section 290.191, subdivisions 9 to 11, and any other tangible property located in Minnesota. Intangible property shall not be included in Minnesota property for purposes of this section. Taxpayers who do not utilize tangible property to apportion income shall nevertheless include Minnesota property for purposes of this section. For the first five taxable years during which a corporation is subject to taxation under this chapter, the amount of its Minnesota property and payrolls shall be deemed to be zero for purposes of this section.

(c) "Minnesota payrolls" means total Minnesota payrolls as provided in section 290.191, subdivision 12. Taxpayers who do not utilize payrolls to

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apportion income shall nevertheless include Minnesota payrolls for purposes of this section.

(d) The "exemption amount" equals the lesser of (1) the sum of the taxpayer's Minnesota sales and receipts, property, and payrolls or (2) \$5,000,000 reduced by one-half of the amount of the taxpayer's total sales and receipts, property, and payrolls in excess of \$10,000,000. Total sales and receipts, property, and payroll means the total determined under section 290.191 as the denominator of the apportionment formula. In the case of a unitary business, the amount must reflect the factors of the entire unitary business as reported on the combined report. A corporation that has as its sole or primary business activity (1) the providing of professional services; (2) operation as a financial institution; (3) sales or management of real estate; or (4) operation as an insurance agency does not have an exemption amount.

Subd. 5. IMPOSITION OF TAX AFTER 1989. For taxable years beginning after December 31, 1989, in addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, of:

(1) 40 percent of the tax imposed upon the corporation under section 55(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986, apportioned to Minnesota under section 290.191. In computing the amount of the liability under section 55(a) of the Internal Revenue Code of 1986, the regular federal tax liability under section 55(a)(2) of the Internal Revenue Code of 1986, must be determined using federal taxable income as modified by sections 290.01, subdivisions 19c and 19d, 290.095, and 290.21, and alternative minimum taxable income under section 56 of the Internal Revenue Code of 1986 must be computed as if the section 290.095 restrictions on net operating losses applied.

(2) the amount of tax computed under this chapter without regard to this section.

Subd. 6. CREDITS. In computing the tax under this section, the following credits are allowed:

(1) the enterprise zone credits allowed by section 273.1314, subdivision 9;

(2) the credits for estimated taxes paid; and

(3) the research and development credit allowed by section 290.068.

Sec. 55. [290.093] TAX COMPUTATION FOR MUTUAL SAVINGS BANKS CONDUCTING LIFE INSURANCE BUSINESS.

Mutual savings banks as defined in section 594 of the Internal Revenue Code of 1986, as amended through December 31, 1986, are subject to a tax consisting of the sum of the taxes determined under clauses (1) and (2):

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(1) a tax computed on the taxable income determined without regard to any items of gross income or deductions properly allocable to the business of the life insurance department, at the rates and in the manner as if this section did not apply; and

(2) a tax computed on the income of the life insurance department determined without regard to any items of gross income or deductions not properly allocable to the department computed in the manner provided in section 290.35 and at the rate provided in section 290.06.

This section applies only if the life insurance department would, if it were treated as a separate corporation, qualify as a life insurance company under section 816 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 56. Minnesota Statutes 1986, section 290.095, subdivision 1, is amended to read:

Subdivision 1. **ALLOWANCE OF DEDUCTION.** (a) There shall be allowed as a deduction for the taxable year the amount of any net operating loss deduction as defined in subdivision 2, clause (b); provided, however, that the modifications specified in subdivision 4 shall be made in computing the taxable net income for the taxable year before the net operating loss deduction shall be allowed provided in section 172 of the Internal Revenue Code of 1986, as amended through December 31, 1986, subject to the limitations and modifications provided in this section.

(b) A net operating loss deduction shall be available under this section only to corporate taxpayers except as provided in that subdivisions 7, 9, and 11 hereof apply only to individuals, estates, and trusts.

Sec. 57. Minnesota Statutes 1986, section 290.095, subdivision 2, is amended to read:

Subd. 2. **DEFINED AND LIMITED.** (a) The term "net operating loss" as used in this section shall mean the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 22, over the gross income used in computing such taxable net income a net operating loss as defined in section 172(c) of the Internal Revenue Code of 1986, as amended through December 31, 1986, with the modifications specified in subdivision 4. The deductions provided in section 290.21 cannot be used in the determination of a net operating loss.

(b) The term "net operating loss deduction" as used in this section means the aggregate of the net operating loss ~~carrybacks and carryovers~~ to the taxable year, computed in accordance with subdivision 3. The provisions of section 172(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, relating to the carryback of net operating losses, do not apply.

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Sec. 58. Minnesota Statutes 1986, section 290.095, subdivision 3, is amended to read:

Subd. 3. **CARRYOVER AND CARRYBACK.** (a) ~~Except as provided in clause (d) or subdivision 8;~~ A net operating loss for any taxable year shall be:

(1) ~~A net operating loss carryback to each of the three taxable years preceding the taxable year of such loss; and~~

(2) a net operating loss carryover to each of the ~~five~~ 15 taxable years following the taxable year of such loss.

(b) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which, ~~by reason of subdivision 3, clause (a) or (d);~~ such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable net income, adjusted by the modifications specified in subdivision 4, for each of the ~~prior~~ taxable years to which such loss may be carried.

(c) Where a corporation does business both within and without Minnesota, and apports its income under the provisions of section ~~290.19~~ 290.191, the net operating loss deduction shall be allowed to the extent of the apportionment ratio of the loss year, ~~or the year to which the loss is carried; whichever is smaller.~~

(d) Where a corporation files a combined report which reflects the entire unitary business as provided in section 290.34, subdivision 2, the corporation shall not be allowed a net operating loss carryback to a year in which it did not file a combined report. The number of taxable years for which a net operating loss carryover is allowed shall be increased by the number of taxable years for which a net operating loss carryback is not allowed under this clause No additional net operating loss deduction is allowed in a subsequent taxable year for the portion of a net operating loss deduction used to offset Minnesota income in a year in which the taxpayer is subject to the alternative minimum tax in section 290.092.

Sec. 59. Minnesota Statutes 1986, section 290.095, subdivision 4, is amended to read:

Subd. 4. **COMPUTATION AND MODIFICATIONS.** The following modifications shall be made in computing a net operating loss in any taxable year and also in computing the taxable net income for any taxable year before a net operating loss deduction shall be allowed:

(a) No deduction shall be allowed for or with respect to losses connected with income producing activities if the income therefrom would not be required to be either assignable to this state or included in computing the taxpayer's taxable net income.

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(b) A net operating loss deduction shall not be allowed.

(c) The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets. ~~The deduction for long-term capital gains provided by section 290.16, subdivision 4, shall not be allowed.~~

(d) Renegotiation of profits for a prior taxable year under the renegotiation laws of the United States of America, including renegotiation of the profits with a subcontractor, shall not enter into the computation.

(e) Federal income and excess profits taxes shall not be allowed as a deduction.

Sec. 60. Minnesota Statutes 1986, section 290.095, subdivision 7, is amended to read:

Subd. 7. **TENTATIVE CARRYBACK ADJUSTMENTS.** (a) Application for adjustment. ~~A taxpayer~~ An individual, estate or trust may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a loss ~~or credit~~ carryback from any taxable year. The application shall be signed and verified as provided in section 290.37, subdivision 1, and shall be filed on or after the date of filing of the return for the taxable year from which the carryback results and within a period of 12 months from the end of such taxable year ~~(or with respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, the application shall be filed within a period of 12 months from the end of the subsequent taxable year)~~, in the manner and form required by rules prescribed by the commissioner. The application shall set forth in such detail and with such supporting data and explanation as such rules shall require:

(1) the amount of the loss ~~or credit~~;

(2) the amount of the tax previously determined for the prior taxable year affected by such carryback;

(3) the amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;

(4) the unpaid amount of such tax;

(5) such other information for purposes of carrying out the provisions of this subdivision as may be required by such rules.

An application under this subdivision shall not constitute a claim for refund until 90 days from the date on which the application was filed, at which time it will become a claim for refund under the provisions of section 290.50.

(b) Allowance of adjustments. Within a period of 90 days from the date on

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which an application for a tentative carryback adjustment is filed under (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year from which such carryback results, whichever is the later, the commissioner shall make, to the extent the commissioner deems practicable in such period a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the commissioner may disallow, without further action, any application on finding that it contains errors of computation which the commissioner deems cannot be corrected by the commissioner within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of tax decreased and any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) The provisions of this subdivision shall apply to net operating loss carrybacks as provided in subdivision 3 ~~or~~ 11; capital loss carrybacks as provided in section 290.16, subdivision 6; ~~research credit carrybacks as provided in section 290.068, subdivision 3~~ 290.01, subdivisions 19, 19a, and 19b; and to any other carrybacks which may be provided in this chapter.

Sec. 61. Minnesota Statutes 1986, section 290.095, subdivision 9, is amended to read:

Subd. 9. **SPECIAL PERIOD OF LIMITATION WITH RESPECT TO NET OPERATING LOSS CARRYBACKS.** For the purposes of sections 290.46 and 290.50 if the claim for refund relates to an overpayment attributable to a net operating loss carryback under this section ~~or as the result in the case of an individual of an adjustment of "federal adjusted gross income" because of the carryback under section 172 of the Internal Revenue Code of 1954, as amended through December 31, 1985,~~ in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period shall be that period which ends with the expiration of the 15th day of the 46th month ~~(or the 45th month, in the case of a corporation)~~ following the end of the taxable year of the net operating loss which results in such carryback ~~or adjustment of "federal adjusted gross income,"~~ plus any extension of time granted for filing the return, but only if the return was filed within the extended time. During this extended period, for taxable years beginning before January 1, 1985, married individuals who elected to file separate returns or a combined return may change their election and file a joint return.

Sec. 62. Minnesota Statutes 1986, section 290.095, subdivision 11, is amended to read:

Subd. 11. **CARRYBACK OR CARRYOVER ADJUSTMENTS.** (a) For individuals the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of

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federal adjusted gross income. For estates and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income:

(b), provided that, notwithstanding any other provision, estates and trusts must apply the following adjustments to the amount of the net operating loss that may be carried back or carried over must be made for:

(1) Nonassignable income or losses for estates and trusts as required by section 290.17, subdivision 2.

(2) Adjustments to the determination of federal adjusted gross income that must be made because of changes in the Internal Revenue Code that have not yet been adopted by the legislature by updating the reference to the Internal Revenue Code contained in section 290.01, subdivision 20.

(3) Gains or losses which result from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes subject to the limitations contained in section 290.01, subdivision 20b, clauses (2) and (3).

(4) Interest, taxes, and other expenses Deductions not allowed allocable to Minnesota under section 290.10, clause (9), for estates and trusts 290.17.

(5) The modification for accelerated cost recovery system depreciation as provided in section 290.01, subdivision 20f.

~~(e)(1)~~ (b) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal adjusted gross income ~~(or federal taxable income for provided that trusts and estates)~~ subject to must apply the following modifications contained in clause (b) and to the following modifications:

~~(A)~~ (1) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other expenses not assignable or allowable to Minnesota incurred in the taxable year.

~~(B)~~ (2) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year.

~~(C)~~ A taxpayer who is not a resident of Minnesota during any part of the taxable year and who has no income assignable to Minnesota during the taxable year shall apply no net operating loss carryback or carryover in the taxable year.

(2) The provisions of section 172(b) of the Internal Revenue Code of 1954 as amended through December 31, 1985 (relating to carrybacks and carryovers) shall apply. For estates and trusts, the net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or

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carryover as calculated in clause (e)(1) ~~(b)~~ less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed to estates and trusts if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. However, if a net operating loss carryback or carryover that was allowed to offset federal income in a year earlier than was possible on the Minnesota return, an estate or trust shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

(d) A net operating loss shall be allowed to be carried back or carried forward only to the extent that loss was assignable to Minnesota in the year the loss occurred or in the year to which the loss was carried over; whichever would allow more of the loss to be allowed for Minnesota purposes.

Sec. 63. Minnesota Statutes 1986, section 290.10, is amended to read:

290.10 NONDEDUCTIBLE ITEMS.

Notwithstanding any other provision of law, in computing the net income of a corporation no deduction shall in any case be allowed for:

- (1) personal, living or family expenses;
- (2) amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, except as otherwise provided in this chapter;
- (3) amounts expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made;
- (4) premiums paid on any life insurance policy covering the life of the taxpayer or of any other person;
- (5) the shrinkage in value, due to the lapse of time, of a life or terminable interest of any kind in property acquired by gift, devise, bequest or inheritance;
- (6) losses from sales or exchanges of property, directly or indirectly, between persons as defined and as provided in section 267 of the Internal Revenue Code;
- (7) in computing net income, no deduction shall be allowed under section 290.09, subdivision 2, relating to expenses incurred or under section 290.09, subdivision 3, relating to interest accrued as provided in section 267 of the Internal Revenue Code;
- (8)(a) contributions by employees under the federal Railroad Retirement Act and the federal Social Security Act; (b) Payments to Minnesota or federal public employee retirement funds; (c) 60 percent of the amount of taxes imposed on self-employment income under section 1401 of the Internal Revenue Code. Effective for taxable years beginning after December 31, 1989, no deduction is allowed for self-employment taxes where the taxpayer claimed a deduction for those taxes under section 164(f) of the Internal Revenue Code;

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(9) expenses, interest and taxes connected with or allocable against the production or receipt of all income not included in the measure of the tax imposed by this chapter, except that for ~~persons~~ corporations engaged in the business of mining or producing iron ore, the mining of which is subject to the occupation tax imposed by section 298.01, subdivision 1, this shall not prevent a subtraction to the extent allowed under section 290.01, subdivision 20b, clause (10)(b), or the deduction by a corporate taxpayer of expenses and other items to the extent that the expenses and other items are allowable under section 290.09 this chapter and are not deductible, capitalizable, retainable in basis, or taken into account by allowance or otherwise in computing the occupation tax and do not exceed the amounts taken for federal income tax purposes for that year. Occupation taxes imposed under chapter 298, royalty taxes imposed under chapter 299, or depletion expenses may not be deducted under this clause;

(10) in situations where this chapter provides for a subtraction from gross income of a specific dollar amount of an item of income assignable to this state, and within the measure of the tax imposed by this chapter, that portion of the federal income tax liability assessed upon such income subtracted, and any expenses attributable to earning such income, shall not be deductible in computing net income;

(11) amounts paid or accrued for such taxes and carrying charges as, under rules prescribed by the commissioner, are chargeable to capital account with respect to property; if the taxpayer elects, in accordance with such rules, to treat such taxes or charges as so chargeable;

(12) no deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if the trade or business (or the activities which comprise the trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the federal Controlled Substances Act) which is prohibited by federal law or the law of Minnesota.

For purposes of this section, reference to the Internal Revenue Code means the Internal Revenue Code of 1954, as amended through December 31, 1985.

Sec. 64. Minnesota Statutes 1986, section 290.12, subdivision 2, is amended to read:

Subd. 2. **ADJUSTMENTS.** For taxable years beginning before January 1, 1987, in computing the amount of gain or loss under subdivision 1 the basis of the property is its adjusted basis for federal income tax purposes, except as otherwise provided in this chapter. In addition to other adjustments provided in this chapter, the adjusted basis of property for federal income tax purposes shall be increased by the amount of accelerated cost recovery system depreciation which was allowed for federal income tax purposes but not allowed for Minnesota income tax purposes under Minnesota Statutes 1986, section 290.01, subdivision 20f or 290.09, subdivision 7, paragraph (A)(c). The basis shall be diminished by the allowance for amortization of bond premium if an election to

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amortize was made in accordance with Minnesota Statutes 1986, section 290.09, subdivision 13, which could, during the period of the taxpayer's ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear and tear, obsolescence, amortization, or depletion actually sustained before such date. In respect of any period since December 31, 1932, during which property was held by a person or an organization not subject to income taxation under this chapter, the basis of the property is its adjusted basis for federal income tax purposes, except as otherwise provided in this chapter.

Sec. 65. Minnesota Statutes 1986, section 290.131, subdivision 1, is amended to read:

Subdivision 1. **DISTRIBUTIONS OF PROPERTY.** For taxable years beginning before January 1, 1987, the effects on recipients of a distribution by a corporation shall be governed by the provisions of sections 301 to 307 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986. However, in section 301(c)(3)(B) the date January 1, 1933 shall be substituted for March 1, 1913 when determining the amount of a distribution that is not taxable.

Sec. 66. Minnesota Statutes 1986, section 290.132, subdivision 1, is amended to read:

Subdivision 1. **TAXABILITY OF CORPORATION ON DISTRIBUTION.** For taxable years beginning before January 1, 1987, no gain or loss shall be recognized to a corporation on the distribution, with respect to its stock as provided in section 311 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

The effect on earnings and profits shall be determined according to the provisions of section 312 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986. However, when determining earnings and profits in section 312(f) and (g), the date December 31, 1932 shall be substituted for February 28, 1913, and January 1, 1933 shall be substituted for March 1, 1913.

Sec. 67. Minnesota Statutes 1986, section 290.133, subdivision 1, is amended to read:

Subdivision 1. **DIVIDEND DEFINED.** For taxable years beginning before January 1, 1987, for purposes of this chapter, the definitions provided in sections 316 to 318 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall apply. However, in section 316 (a)(1), "December 31, 1932" shall be substituted for "February 28, 1913" when determining dividends.

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Sec. 68. Minnesota Statutes 1986, section 290.134, subdivision 1, is amended to read:

Subdivision 1. **GAIN OR LOSS TO SHAREHOLDERS IN CORPORATE LIQUIDATIONS.** For taxable years beginning before January 1, 1987, the effects on recipients of corporate liquidations shall be governed by the provisions of sections 331 to 334 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986. However, in section 333(f)(2), the date December 31, 1932, shall be substituted for February 28, 1913 when determining accumulated earnings and profits.

Sec. 69. Minnesota Statutes 1986, section 290.135, subdivision 1, is amended to read:

Subdivision 1. **GENERAL RULE.** For taxable years beginning before January 1, 1987, gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation or on any distribution or sale of an interest in a partnership as provided in sections 336 to 346 and 386 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

Sec. 70. Minnesota Statutes 1986, section 290.136, subdivision 1, is amended to read:

Subdivision 1. **TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR.** For taxable years beginning before January 1, 1987, the provisions of sections 351 to 368 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall apply to corporate organizations and reorganizations. However, in section 362, the phrase "acquired in a taxable year beginning after December 31, 1956" shall be substituted for "acquired on or after June 22, 1954" when determining the property to which this section applies.

Sec. 71. Minnesota Statutes 1986, section 290.138, subdivision 3, is amended to read:

Subd. 3. **CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.** The provisions of sections 381 and 382 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall apply to carryovers in certain corporate acquisitions and special limitations on net operating loss carryovers.

Sec. 72. Minnesota Statutes 1986, section 290.14, is amended to read:

290.14 GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.

For taxable years beginning before January 1, 1987, except as otherwise provided in this chapter, the basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be its adjusted basis for federal income tax purposes, with the following exceptions:

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(1) Corporations, partnerships, or individuals subject to the occupation tax under chapter 298, shall use the occupation tax basis;

(2) The basis of property subject to the provisions of section 1034 of the Internal Revenue Code of 1954, as amended through December 31, 1985 (relating to the rollover of gain on sale of principal residence) shall be increased by the amount of gain realized on the sale of a principal residence outside of Minnesota, while a nonresident of this state, which gain was not recognized because of the provisions of section 1034.

Sec. 73. Minnesota Statutes 1986, section 290.17, is amended to read:

Subdivision 1. **INCOME OF RESIDENT INDIVIDUALS SCOPE OF ALLOCATION RULES.** The gross income of individuals shall be their gross income as defined in section 290.01, subdivision 20 (a) The income of resident individuals is not subject to allocation outside this state. The allocation rules apply to nonresident individuals, estates, trusts, nonresident partners of partnerships, nonresident shareholders of corporations having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and all corporations not having such an election in effect. If a partnership or corporation would not otherwise be subject to the allocation rules, but conducts a trade or business that is part of a unitary business involving another legal entity that is subject to the allocation rules, the partnership or corporation is subject to the allocation rules.

(b) Expenses, losses, and other deductions (referred to collectively in this paragraph as "deductions") must be allocated along with the item or class of gross income to which they are definitely related for purposes of assignment under this section or apportionment under section 290.191, 290.20, 290.35, or 290.36. Deductions not definitely related to any item or class of gross income are assigned to the taxpayer's domicile.

Subd. 1a. **SUBSEQUENT ADJUSTMENT.** When a loss has been reduced by the amount of tax preference items pursuant to Minnesota Statutes 1983 Supplement, section 290.17, subdivision 1, and the taxpayer subsequently sells or otherwise disposes of an asset in relation to which arose an item of tax preference which caused the reduction of the loss, the taxpayer may increase the basis of the asset by the amount of the tax preference item that was used to reduce the loss. If the asset is a depletable asset, the taxpayer may elect to so increase its basis upon disposition or to reduce the amount of otherwise taxable income subsequently produced by that asset by the amount of the tax preference item.

Subd. 2. **OTHER TAXPAYERS INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.** In the case of an individual who is not a full-year resident, this subdivision applies to determine what income is assignable to Minnesota for purposes of determining the numerator of the fraction used in section 290.06, subdivision 2e. In the case of taxpayers not subject to the provisions of subdivision 1, items of gross income shall be assigned to this state or other states or countries in accordance with the following principles:

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(1)(a) The entire income of all resident or domestic taxpayers from compensation for labor or personal services; or from a business consisting principally of the performance of personal or professional services; shall be assigned to this state; and the income of nonresident taxpayers from such sources shall be assigned to this state if; and to the extent that; the labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state.

The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services is assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources is treated as income from sources without this state.

(b) (2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota. ~~In order to eliminate the need to file state or provincial income tax returns in several states or provinces, Minnesota will exclude from income any income assigned to Minnesota under the provisions of this clause for a nonresident athlete who is employed by an athletic team whose operations are not based in this state and for a nonresident salaried entertainer who is employed by an entertainment organization whose operations are not based in this state if the state or province in which the athletic team or entertainment organization is based provides a similar income exclusion. If the state or province in which the athletic team's or the entertainment organization's operations are based does not have an income tax on an individual's personal service income, it will be deemed that that state or province has a similar income exclusion. As used in the preceding sentence, the term "province" means a province of Canada; and~~

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(2) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state. Income from winnings on Minnesota pari-mutuel betting

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tickets shall be assigned to this state. Income and gains received from tangible property not employed in the business of the recipient of such income or gains; and from tangible property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom; shall be assigned to this state if such property has a situs within it; and to other states only if it has no situs in this state. Income or gains from intangible personal property not employed in the business of the recipient of such income or gains; and from intangible personal property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom; wherever held; whether in trust; or otherwise; shall be assigned to this state if the recipient thereof is domiciled within this state or is a resident trust or estate.

(3) Income derived from carrying on a trade or business, including in the case of a business owned by natural persons the income imputable to the owner for the owner's services and the use of the owner's property therein; shall be assigned to this state if the trade or business is conducted wholly within this state; and to other states if conducted wholly without this state. This provision shall not apply to business income subject to the provisions of clause (1).

(4) When a trade or business is carried on partly within and partly without this state; the entire income derived from such trade or business; including income from intangible property employed in such business and including, in the case of a business owned by natural persons; the income imputable to the owner for the owner's services and the use of the owner's property therein; shall be governed; except as otherwise provided in sections 290.35 and 290.36; by the provisions of section 290.19; notwithstanding any provisions of this subdivision to the contrary. This shall not apply to business income subject to the provisions of clause (1); nor shall it apply to income from the operation of a farm which is subject to the provisions of clause (2). For the purposes of this clause; a trade or business located in Minnesota is carried on partly within and partly without this state if tangible personal property is sold by such trade or business and delivered or shipped to a purchaser located outside the state of Minnesota.

If the trade or business carried on wholly or partly in Minnesota is part of a unitary business; the entire income of that unitary business shall be subject to apportionment under section 290.19 except for business income subject to the provisions of clause (1) and farm income subject to the provisions of clause (2). The term "unitary business" shall mean business activities or operations which are of mutual benefit; dependent upon; or contributory to one another; individually or as a group. Unity shall be presumed whenever there is unity of ownership; operation; and use; evidenced by centralized management or executive force; centralized purchasing; advertising; accounting; or other controlled interaction but the absence of these centralized activities will not necessarily evidence a nonunitary business. Unity of ownership will not be deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more corporations more than 50 percent of the voting stock of each

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member of the group is directly or indirectly owned by a common owner or by common owners; either corporate or noncorporate; or by one or more of the member corporations of the group.

The entire income of a unitary business shall be subject to apportionment as provided in section 290.19. None of the income of a unitary business shall be considered as derived from any particular source and none shall be allocated to any particular place except as provided by the applicable apportionment formula.

In determining whether or not intangible property is employed in a unitary business carried on partly within and partly without this state so that income derived therefrom is subject to apportionment under section 290.19 the following rules and guidelines shall apply:

(a) Intangible property is employed in a business if the business entity owning intangible property holds it as a means of furthering the business operation of which a part is located within the territorial confines of this state:

(b) Where a business operation conducted in Minnesota; is owned by a business entity which carries on business activity outside of the state different in kind from that conducted within this state; and such other business is conducted entirely outside the state; it will be presumed that the two business operations are unitary in nature; interrelated; connected and interdependent unless it can be shown to the contrary:

(5) For purposes of this section; amounts received by a nonresident from the United States; its agencies or instrumentalities; the Federal Reserve Bank; the state of Minnesota or any of its political or governmental subdivisions; or a Minnesota volunteer firefighters' relief association; by way of payment as a pension; public employee retirement benefit; or any combination thereof; or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 408, or 409 of the Internal Revenue Code of 1954, as amended through December 31, 1985; are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota; and are not taxable under this chapter.

(6) All other items of gross income shall be assigned to the taxpayer's domicile.

(3) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination of these, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 408, or 409, or as defined in section 403(b) or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1986, are not considered income derived from carrying on a trade or business or from performing

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personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Except upon the sale of a partnership interest, income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

(d) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.

(e) Income from winnings on Minnesota pari-mutuel betting tickets shall be assigned to this state.

(f) All items of gross income not covered in paragraphs (a) to (e) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Subd. 3. TRADE OR BUSINESS INCOME; GENERAL RULE. Income derived from carrying on a trade or business must be assigned to this state if the trade or business is conducted wholly within this state, assigned outside this state if conducted wholly without this state and apportioned between this state and other states and countries under this subdivision if conducted partly within and partly without this state. For purposes of determining whether a trade or business is carried on exclusively within or without this state:

(a) A trade or business physically located exclusively within this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 290.191 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state.

(b) A trade or business physically located exclusively without this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 290.191 for the allocation of sales or receipts

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within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state. The jurisdiction to tax such a business under this chapter must be determined in accordance with sections 290.014 and 290.015.

Subd. 4. UNITARY BUSINESS PRINCIPLE. (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to farm income subject to subdivision 5, paragraph (a), business income subject to subdivision 5, paragraph (b) or (c), income of an insurance company determined under section 290.35, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

(f) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of corporations or other entities created or organized in the United States or under the laws of the United States or of any state, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, or any political subdivision of any the foregoing and of any FSC as defined in section 922 of the Internal Revenue Code of 1986, as amended through December 31, 1986, that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that other corporations

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or other entities organized in foreign countries might be included in the unitary business.

(g) Each corporation or other entity that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph (f) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph (f) in the denominators of the apportionment formula.

Subd. 5. SPECIAL RULES. Notwithstanding subdivisions 3 and 4, all income from the operation of the following types of businesses must be allocated as follows:

(a) All income from the operation of a farm is assigned to this state if the farm is located within this state and no such income is assigned to this state if the farm is located without this state.

(b) Income from a trade or business consisting principally of the performance of personal or professional services is assigned to this state if, and to the extent that, the services are performed within this state.

(c) For athletic teams when the visiting team does not share in the gate receipts, all of the team's income is assigned to the state in which the team's operation is based.

Subd. 6. NONBUSINESS INCOME. For a trade or business for which allocation of income within and without this state is required, if the taxpayer has any income not connected with the trade or business carried on partly within and partly without this state that income must be allocated under subdivision 2. Intangible property is employed in a trade or business if the owner of the property holds it as a means of furthering the trade or business.

Sec. 74. Minnesota Statutes 1986, section 290.171, is amended to read:

290.171 ENACTMENT OF MULTISTATE TAX COMPACT.

The "multistate tax compact" is hereby enacted into law to the extent provided in this section and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II. Definitions.

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
2. "Subdivision" means any governmental unit or special district of a state.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is custom-

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arily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of articles III, IV and article V of this compact shall apply only to the taxes specifically designated therein and the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.

Article III. Elements of Income Tax Laws:

Taxpayer Option; State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact; or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer Option; Short Form.

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The commissioner of revenue, after consultation with the Multistate Tax Commis-

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sion; not more than once in five years; may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar; and such adjusted figure, upon adoption by the commissioner, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage:

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

Article IV. Division of Income.

1. As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business; and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications; transportation of goods or persons, except by pipeline; or the production; transmission; sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

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2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual or any income received by a Minnesota resident individual or income from the operation of a farm, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

5. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

6. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

7. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

8. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

9. Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state;

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

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(e) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

10. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period; and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

11. Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

12. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

13. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

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Article V. Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI. The Commission.

Organization and Management.

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(c) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of

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the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

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(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The

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commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. ~~The commission may also act with respect to the provisions of article IV of this compact.~~

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

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Article VIII. Interstate Audits.

1. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

2. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident, provided that such state has adopted this article.

3. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

4. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

5. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

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6. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

7. In no event shall the commission make any charge against a taxpayer for an audit.

8. As used in this article, "tax," in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX. Arbitration.

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state states or subdivision subdivisions thereof are substantially identical with the relevant provisions of article IV, this chapter, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

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5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

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Article X. Entry Into Force and Withdrawal.

1. This compact shall become effective as to any other state upon its enactment. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI. Effect on Other Laws and Jurisdictions.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation; ~~except that a party state shall be obligated to implement article III 2 of this compact.~~

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax, provided that the definition of "tax" in article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

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Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Sec. 75. [290.191] APPORTIONMENT OF NET INCOME.

Subdivision 1. GENERAL RULE. Except as otherwise provided in section 290.17, subdivision 5, the net income from a trade or business carried on partly within and partly without this state must be apportioned to this state as provided in this section.

Subd. 2. APPORTIONMENT FORMULA OF GENERAL APPLICATION. Except for those trades or businesses required to use a different formula under subdivision 3 or section 290.35 or 290.36, and for those trades or businesses that receive permission to use some other method under section 290.20 or under subdivision 4, a trade or business required to apportion its net income must apportion its income to this state on the basis of the percentage obtained by taking the sum of:

(1) 70 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 15 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 15 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 3. APPORTIONMENT FORMULA FOR FINANCIAL INSTITUTIONS. Except for an investment company required to apportion its income under section 290.36, a financial institution that is required to apportion its net income must apportion its net income to this state on the basis of the percentage obtained by taking the sum of:

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(1) 70 percent of the percentage which the receipts from within this state in connection with the trade or business during the tax period are of the total receipts in connection with the trade or business during the tax period, from wherever derived;

(2) 15 percent of the percentage which the sum of the total tangible property used by the taxpayer in this state and the intangible property owned by the taxpayer and attributed to this state in connection with the trade or business during the tax period is of the sum of the total tangible property, wherever located, used by the taxpayer and the intangible property owned by the taxpayer and attributed to all states in connection with the trade or business during the tax period; and

(3) 15 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 4. APPORTIONMENT FORMULA FOR CERTAIN MAIL ORDER BUSINESSES. If the business consists exclusively of the selling of tangible personal property and services in response to orders received by United States mail or telephone, and 100 percent of the taxpayer's property and payroll is within Minnesota, then the taxpayer may apportion net income to Minnesota based solely upon the percentage that the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period. Property and payroll factors are disregarded. In determining eligibility for this subdivision, the sale not in the ordinary course of business of tangible or intangible assets used in conducting business activities must be disregarded. This subdivision is repealed effective for taxable years beginning after December 31, 1988.

Subd. 5. DETERMINATION OF SALES FACTOR. (a) For purposes of this section, the following rules apply in determining the sales factor.

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

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

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

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

(f) Sales, other than sales of tangible personal property, are made in this state if the property is used, or the benefits of the services are consumed, in this state. If the property is used or the benefits of the services are consumed in more than one state, the sales must be apportioned pro rata according to the portion of use or consumption of benefits in this state.

Subd. 6. DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS. (a) For purposes of this section, the rules in this subdivision and subdivisions 7 and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market transactions, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Tangible personal property that is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment, and the like, is considered to be located in a state if:

(1) the operation of the property is entirely within the state; or

(2) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by

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real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations not secured by real or tangible personal property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the business applied for the loan. "Applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(i) Interest income and other receipts from a participating financial institution's portion of participation loans must be attributed under paragraphs (e) to (h). A participation loan is a loan in which more than one lender is a creditor to a common borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one state, the receipts from those benefits must be apportioned to this state pro rata according to the portion of the benefits consumed in this state.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities of this state, its political subdivisions, agencies, and instrumentalities must be attributed to this state.

Subd. 7. RECEIPTS FROM INVESTMENTS IN NONSTATE SECURITIES; HOW APPORTIONED. Receipts from investments of a financial institution in other securities and from money market instruments must be apportioned to this state based on the ratio that total deposits from this state, its residents, including any business with an office or other place of business in this state, its political subdivisions, agencies, and instrumentalities bear to the total deposits

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from all states, their residents, their political subdivisions, agencies, and instrumentalities. In the case of an unregulated financial institution subject to this section, these receipts are apportioned to this state based on the ratio that its gross business income earned from sources within this state bears to gross business income earned from sources within all states. For purposes of this subdivision, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities must be attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

Subd. 8. DEPOSIT; DEFINITION. (a) "Deposit," as used in subdivision 7, has the meanings in this subdivision.

(b) "Deposit" means the unpaid balance of money or its equivalent received or held by a financial institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account whether or not advance notice is required to withdraw the credited funds, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, or certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the financial institution, or a letter of credit or a traveler's check on which the financial institution is primarily liable. However, without limiting the generality of the term "money or its equivalent," any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining the credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to the bank for collection.

(c) "Deposit" means trust funds received or held by the financial institution, whether held in the trust department or held or deposited in any other department of the financial institution.

(d) "Deposit" means money received or held by a financial institution, or the credit given for money or its equivalent received or held by a financial institution, in the usual course of business for a special or specific purpose, regardless of the legal relationship so established. Under this paragraph, "deposit" includes, but is not limited to, escrow funds, funds held as security for an obligation due to the financial institution or others, including funds held as dealers reserves, or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes. It does not include funds received by the financial institution for immediate application to the reduction of an indebtedness to the receiving financial institution, or under condition that the receipt of the funds immediately reduces or extinguishes the indebtedness.

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(e) "Deposit" means outstanding drafts, including advice or authorization to charge a financial institution's balance in another such institution, cashier's checks, money orders, or other officer's checks issued in the usual course of business for any purpose, but not including those issued in payment for services, dividends, or purchases or other costs or expenses of the financial institution itself.

(f) "Deposit" means money or its equivalent held as a credit balance by a financial institution on behalf of its customer if the entity is engaged in soliciting and holding such balances in the regular course of its business.

(g) Interinstitution fund transfers are not deposits.

Subd. 9. DETERMINATION OF PROPERTY FACTOR; GENERAL RULES. For all taxpayers, the property factor includes tangible property, real, personal, and mixed, owned or rented, and used by the taxpayer in connection with the trade or business, as set forth in subdivision 10. For financial institutions only, the property factor also includes intangible property, as set forth in subdivision 11. For both tangible and intangible property, the property included in the property factor is the average of the total property used by the taxpayer in connection with its business during the tax period. Such averages must be on a commensurate basis for property within and without the state.

Subd. 10. PROPERTY FACTOR; TANGIBLE PROPERTY. (a) Tangible property includes land, buildings, machinery and equipment, inventories, and other tangible personal property actually used by the taxpayer during the taxable year in carrying on the business activities of the taxpayer. Tangible property which is separately allocated under section 290.17 is not includable in the property factor.

(b) Cash on hand or in banks, shares of stock, notes, bonds, accounts receivable, or other evidences of indebtedness, special privileges, franchises, and goodwill, are specifically excluded from the property factor, except as otherwise provided for financial institutions in subdivision 11.

(c) The value of tangible property that is owned by the taxpayer and that is to be used in the apportionment fraction is the original cost adjusted for any later capital additions or improvements and partial disposition by reason of sale, exchange, or abandonment.

(d) For purposes of computing the property factor, United States government property that is used by the taxpayer must be considered owned by the taxpayer.

(e) Property that is rented by the taxpayer is valued at eight times the net annual rental. Net annual rental is the annual rental paid by the taxpayer less any annual rental received by the taxpayer from subrentals. If the subrents taken into account in determining the net annual rental produce a negative or clearly inaccurate value for any item of property, another method that will

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properly reflect the value of rented property may be required by the commissioner or requested by the taxpayer. In no case, however, shall the value be less than an amount which bears the same ratio to the annual rental paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. Rents paid during the year cannot be averaged.

(f) A person filing a combined report shall use this method of calculating the property factor for all members of the group.

Subd. 11. FINANCIAL INSTITUTIONS; PROPERTY FACTOR. (a) For financial institutions, the property factor includes, as well as tangible property, intangible property as set forth in this subdivision.

(b) Intangible personal property must be included at its tax basis for federal income tax purposes.

(c) Goodwill must not be included in the property factor.

(d) Coin and currency located in this state must be attributed to this state.

(e) Lease financing receivables must be attributed to this state if and to the extent that the property is located within this state.

(f) Assets in the nature of loans that are secured by real or tangible personal property must be attributed to this state if and to the extent that the security property is located within this state.

(g) Assets in the nature of consumer loans and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan was made to a resident of this state.

(h) Assets in the nature of commercial loan and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the assets must be attributed to the state in which the business applied for the loan. "Applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(i) A participating financial institution's portion of a participation loan must be attributed under paragraphs (e) to (h).

(j) Financial institution credit card and travel and entertainment credit card receivables must be attributed to the state to which the credit card charges and fees are regularly billed.

(k) Receivables arising from merchant discount income derived from financial institution credit card holder transactions with a merchant are attributed to the state in which the merchant is located. In the case of merchants located

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within and without the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Assets in the nature of securities and money market instruments are apportioned to this state based upon the ratio that total deposits from this state, its residents, its political subdivisions, agencies and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies and instrumentalities. In the case of an unregulated financial institution subject to this regulation, the receipts are apportioned to this state based upon the ratio that its gross business income earned from sources within this state bears to gross business income earned from sources within all states. For purposes of this subsection, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities are attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

Subd. 12. DETERMINATION OF PAYROLL FACTOR. (a) The payroll factor must be determined in the same way for all taxpayers.

(b) Wages or salaries must be determined to be paid or incurred in this state if the individual with respect to whom the wages or salaries are paid is either employed within this state or is actually engaged in work in the territorial confines of this state, or if working without this state, is identified with or accountable to an office within this state.

(c) The wages or salaries paid to officers and employees working from offices within this state are considered payroll within this state even though the officer's and employee's employment requires them to spend working time without this state. Officers and employees whose employment requires them to work without the state entirely and who are assigned to an office without the state, are not considered employees within the state for the purpose of apportionment even though their salaries are paid from the taxpayer's general offices within the state.

Sec. 76. Minnesota Statutes 1986, section 290.20, subdivision 1, is amended to read:

Subdivision 1. The methods prescribed by section ~~290.19~~ 290.191 shall be presumed to determine fairly and correctly the taxpayer's taxable net income allocable to this state. Any taxpayer feeling aggrieved by the application of the methods so prescribed may petition the commissioner for determination of such net income by the use of some other method, including separate accounting. Thereupon, the commissioner on finding that the application of the methods prescribed by section 290.19 will be unjust to the taxpayer, may allow the use of the methods so petitioned for by the taxpayer, or may determine such net income by other methods if satisfied that such other methods will fairly reflect such net income. A petition within the meaning of this section shall be deemed to have been filed by the taxpayer if the taxpayer's return uses a method other than the methods prescribed by section 290.19, and if such return shall have attached thereto a statement setting forth the reasons for the use of such other

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~~method~~ If the methods prescribed by section 290.191 do not fairly reflect all or any part of taxable net income allocable to this state, the taxpayer may petition for or the commissioner may require the determination of net income by the use of another method, if that method fairly reflects net income. These other methods may include:

- (1) separate accounting;
- (2) excluding any one or more of the factors;
- (3) including one or more additional factors; or
- (4) some other method.

Sec. 77. Minnesota Statutes 1986, section 290.20, is amended by adding a subdivision to read:

Subd. 1a. A petition within the meaning of this section must be filed by the taxpayer in the form required by the commissioner.

Sec. 78. Minnesota Statutes 1986, section 290.21, subdivision 3, is amended to read:

Subd. 3. An amount for contribution or gifts made within the taxable year:

(a) to or for the use of the state of Minnesota, or any of its political subdivisions for exclusively public purposes,

(b) to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation located in and carrying on substantially all of its activities within this state, organized and operating exclusively for religious, charitable, public cemetery, scientific, literary, artistic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual,

(c) to a fraternal society, order, or association, operating under the lodge system located in and carrying on substantially all of their activities within this state if such contributions or gifts are to be used exclusively for the purposes specified in subdivision 3(b), or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual,

(d) to or for the use of the United States of America for exclusively public purposes; ~~and to or for the use of any community chest, corporation, trust, fund, association, or foundation, organized and operated exclusively for any of the purposes specified in subdivision 3(b) and (c) no part of the net earnings of which inures to the benefit of any private shareholder or individual, but not carrying on substantially all of their activities within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income if the contribution or gift consists of real property located in Minnesota,~~

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(e) the total deduction hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the deductions allowable under this section other than those for contributions or gifts,

(f) in the case of a corporation reporting its taxable income on the accrual basis, if: (A) the board of directors authorizes a charitable contribution during any taxable year, and (B) payment of such contribution is made after the close of such taxable year and on or before the fifteenth day of the third month following the close of such taxable year; then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the commissioner shall by rules prescribe.

Sec. 79. Minnesota Statutes 1986, section 290.21, subdivision 4, is amended to read:

Subd. 4. (a) ~~85~~ 80 percent of dividends received by a corporation during the taxable year from another corporation, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom. The remaining ~~15~~ 20 percent shall be allowed if the recipient owns 80 percent or more of all the voting stock of the other corporation and the dividends were paid from income arising out of business done in this state by the corporation paying the dividends. If the dividends were declared from income arising out of business done within and without this state, then a proportion of the remainder shall be allowed as a deduction. The proportion must be that which the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation. The amounts must be determined by the returns under this chapter of the corporation paying the dividends for the taxable year preceding their distribution. The burden is on the taxpayer to show that the amount of remainder claimed as a deduction has been received from income arising out of business done in this state.

(b) If the trade or business of the taxpayer consists principally of the holding of the stocks and the collection of the income and gains therefrom, dividends received by a corporation during the taxable year from another corporation, if the recipient owns 80 percent or more of all the voting stock of the other corporation, from income arising out of business done in this state by the corporation paying the dividends. If the dividends were declared from income arising out of business done within and without this state, then a proportion of the dividends shall be allowed as a deduction. The proportion must be that which the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation. The amounts must be determined by the returns under this

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chapter of the corporation paying the dividends for the taxable year preceding their distribution. The burden is on the taxpayer to show that the amount of dividends claimed as a deduction has been received from income arising out of business done in this state.

(c) The dividend deduction provided in this subdivision shall be allowed only with respect to dividends that are included in a corporation's Minnesota taxable net income for the taxable year.

The dividend deduction provided in this subdivision does not apply to a dividend from a corporation which, for the taxable year of the corporation in which the distribution is made or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

The dividend deduction provided in this subdivision applies to the amount of regulated investment company dividends only to the extent determined under section 854(b) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

The dividend deduction provided in this subdivision shall not be allowed with respect to any dividend for which a deduction is not allowed under the provisions of section 246(c) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

(d) If dividends received by a corporation that does not have nexus with Minnesota under the provisions of Public Law Number 86-272 are included as income on the return of an affiliated corporation permitted or required to file a combined report under section 290.34, subdivision 2, then for purposes of this subdivision the determination as to whether the trade or business of the corporation consists principally of the holding of stocks and the collection of income and gains therefrom shall be made with reference to the trade or business of the affiliated corporation having a nexus with Minnesota.

(e) ~~Dividends received by a corporation from another corporation which is organized under the laws of a foreign country or a political subdivision of a foreign country; if the dividends are paid from income arising from sources without the United States; the commonwealth of Puerto Rico; and the possessions of the United States. The deduction provided by this clause~~ subdivision ~~does not apply if the corporate stock with respect to which dividends are paid constitutes the stock in trade of the taxpayer, or would be included in the inventory of the taxpayer, or constitutes property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business; or if the trade or business of the taxpayer consists principally of the holding of stocks and the collection of the income or gains therefrom; or if the dividends are paid by a FSC as defined in section 922 of the Internal Revenue Code of 1954~~ 1986, as amended through December 31, ~~1985~~. No dividend may be deducted under this clause if it is deducted under clause (a) 1986.

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Sec. 80. Minnesota Statutes 1986, section 290.21, subdivision 8, is amended to read:

Subd. 8. **FOREIGN SOURCE ROYALTIES.** (a) An amount equal to 35 percent of rentals, fees, and royalties accrued or received from a foreign corporation for the use of or for the privilege of using outside of the United States patents, copyrights, secret processes and formulas, good will, know-how, trademarks, trade brands, franchises, and other like property. Rentals, fees, or royalties deducted under this subdivision shall not be included in the taxpayer's apportionment factors under section 290.19, subdivision 1, clause (1)(a) or (2)(a)(1). The preceding sentence shall not be construed to imply that nondeductible rentals, fees, and royalties from such properties are or were included in or excluded from the apportionment factors under any other provision of law.

(b) ~~A corporation is allowed~~ The deduction provided by this subdivision is allowed only if during the taxable year it the corporation receiving the income received or accrued at least 80 percent of its gross income during the taxable year from sources as defined in clause (a) and from dividends received from foreign corporations. A corporation's gross income for purposes of paragraphs (b) and (c) shall be computed without regard to the requirement of section 290.34, subdivision 2, that a combined report be filed reflecting the entire income of the unitary business.

(c) For purposes of this subdivision, a foreign corporation is (i) a corporation organized under the laws of a foreign country or the political subdivision of a foreign country or (ii) a corporation which for the taxable year derives at least 80 percent of its gross income from sources without the United States, the commonwealth of Puerto Rico, and the possessions of the United States. A foreign corporation does not include a DISC as defined in section 992(a) of the Internal Revenue Code of 1954, as amended through December 31, 1985, or a FSC as defined in section 922 of the Internal Revenue Code of 1954, as amended through December 31, 1985.

(d) The deduction provided in this subdivision is allowed only with respect to rentals, fees, and royalties that are included in a corporation's Minnesota taxable net income for the taxable year.

(e) In the case of a unitary business required to file a combined report, one or more members of which meet the requirements of paragraph (b) and received rentals, fees or royalties as defined in paragraph (a), the deduction under this subdivision for each member of the unitary business required to file a return under this chapter is the product of (1) 100 percent of the rentals, fees, and royalties as defined in paragraph (a) received by the members of the unitary business meeting the requirements of paragraph (b); (2) 35 percent; and (3) the percentage of business income of the unitary business apportionable to this state for the deducting corporation for the taxable year under this chapter.

Sec. 81. Minnesota Statutes 1986, section 290.23, subdivision 3, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **UNUSED LOSS CARRYOVERS AND EXCESS DEDUCTIONS ON TERMINATION AVAILABLE TO BENEFICIARIES.** If on the termination of an estate or trust, the estate or trust has

(1) a net operating loss carryover under section 290.095, ~~a capital loss carryover under section 290.01, subdivisions 20 to 20f~~ or any other loss or credit carryover allowed under this chapter; or

(2) for the last taxable year of the estate or trust deductions (other than the charitable deduction) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with rules prescribed by the commissioner, to the beneficiaries succeeding to the property of the estate or trust. This provision does not apply to individuals, and carryovers and deductions must be reported as provided in section 290.01, subdivisions 19 to 19b.

Sec. 82. Minnesota Statutes 1986, section 290.23, subdivision 5, is amended to read:

Subd. 5. **DISTRIBUTABLE NET INCOME, INCOME, BENEFICIARY; DEFINED.** (1) For purposes of sections 290.22 through 290.25, the term "distributable net income" means the same as that term is defined in section 643(a) of the Internal Revenue Code of 1954 1986, as amended through December 31, ~~1985~~ 1986 with the following modification:

There shall be included any tax-exempt interest to which section 290.01, subdivision ~~20b~~ 19b, clause (1) applies; ~~reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of section 290.10(9) (relating to disallowance of certain deductions).~~

If the estate or trust is allowed a deduction under section 642(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, ~~1985~~ 1986, the amount of the modification shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in that section of the Internal Revenue Code is deemed to consist of items specified in the modification. For this purpose, such amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

(2) The term "income," and the term "beneficiary" have the same meaning as those terms are defined in section 643(b) and (c) of the Internal Revenue Code of 1954 1986, as amended through December 31, ~~1985~~ 1986. The treatment of property distributed in kind and of multiple trusts shall be the same as provided in section 643 of the Internal Revenue Code of 1954 1986, as amended through December 31, ~~1985~~ 1986.

Sec. 83. Minnesota Statutes 1986, section 290.31, subdivision 2, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. INCOME AND CREDITS OF PARTNER. (1) In determining income tax, each partner shall take into account separately the partner's distributive share of the partnership's

(a) gains and losses from sales or exchanges of short-term capital assets as defined in section 290.16, subdivision 3,

(b) gains and losses from sales or exchanges of long-term capital assets as defined in section 290.16, subdivision 3,

(c) gains and losses from sales or exchanges of property described in section 1231 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986 (relating to certain property used in a trade or business and involuntary conversions),

(d) charitable contributions as defined in section 170(c) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986,

(e) dividends with respect to which there is provided ~~an exclusion under section 116 or a deduction under sections 241 to 247 of the Internal Revenue Code of 1954~~ 1986, as amended through December 31, ~~1985~~ 1986,

(f) other items of income, gain, loss, deduction, or credit, to the extent provided by rules prescribed by the commissioner, and

(g) taxable net income or loss, exclusive of items requiring separate computation under other subparagraphs of this paragraph (1).

(2) The character of any item of income, gain, loss, deduction, or credit included in a partner's distributive share under paragraphs (a) through (f) of paragraph (1) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(3) In any case where it is necessary to determine the gross income of a partner for purposes of this chapter, such amount shall include the partner's distributive share of the gross income of the partnership.

Sec. 84. Minnesota Statutes 1986, section 290.31, is amended by adding a subdivision to read:

Subd. 2a. The provisions of subdivisions 2 and 5 do not apply to individuals, and items of income, gain, loss, or deduction must be reported as provided in section 290.01, subdivisions 19 to 19b.

Sec. 85. Minnesota Statutes 1986, section 290.31, subdivision 3, is amended to read:

Subd. 3. PARTNERSHIP COMPUTATIONS. The taxable net income of a partnership shall be computed ~~in the same manner as in the case of an individual except that~~

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(1) the items described in subdivision 2(1) shall be separately stated; and

(2) the following deductions shall not be allowed to the partnership:

(a) the deduction for taxes provided in section 164(a) of the Internal Revenue Code of 1954, as amended through December 31, 1985, with respect to taxes, described in section 901 of the Internal Revenue Code of 1954, as amended through December 31, 1985, paid or accrued to foreign countries and to possessions of the United States;

(b) the deduction for charitable contributions provided in section 290.21, subdivision 3 or section 170 of the Internal Revenue Code of 1954, as amended through December 31, 1985;

(c) the net operating loss deduction provided in section 290.095;

(d) the additional itemized deductions for individuals provided in sections 211 to 223 of the Internal Revenue Code of 1954, as amended through December 31, 1985; and;

(e) the deduction for depletion under section 290.09, subdivision 8 with respect to oil and gas wells as provided in section 703(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that, in the case of a corporate partner, the deduction for depletion shall be computed under section 290.01, subdivisions 19c and 19d.

Any election affecting the computation of taxable net income derived from a partnership shall be made by the partnership except as provided in section 703(b) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

Sec. 86. Minnesota Statutes 1986, section 290.31, subdivision 5, is amended to read:

Subd. 5. DETERMINATION OF BASIS OF PARTNER'S INTEREST.

The adjusted basis of a partner's interest in a partnership shall, except as provided in the last paragraph of this subdivision, be the basis of such interest determined under section 722 or 742 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, relating to contributions to a partnership or transfers of partnership interests

(1) increased by the sum of the partner's distributive share for the taxable year and prior taxable years of

(a) net income of the partnership as determined under subdivision 3(1) and (2),

(b) income of the partnership exempt from tax under this chapter,

(c) the excess of the deductions for depletion over the basis of the property subject to depletion, and

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(2) decreased (but not below zero) by distributions by the partnership as provided in section 733 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, and by the sum of the partner's distributive share for the taxable year and prior taxable years of

(a) losses of the partnership, and

(b) expenditures of the partnership not deductible in computing its taxable net income and not properly chargeable to capital account, and

(3) decreased, but not below zero, by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent the deduction does not exceed the proportionate share of the adjusted basis of the property allocated to the partner under section 613A(c)(7)(D) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986. For corporate partners, the deduction for depletion with respect to oil and gas wells shall be computed as provided in section ~~290.09~~, ~~subdivision 8~~ 290.01, ~~subdivisions 19c and 19d~~.

The commissioner shall prescribe by rule the circumstances under which the adjusted basis of a partner's interest in a partnership may be determined by reference to the partner's proportionate share of the adjusted basis of partnership property upon a termination of the partnership.

Sec. 87. Minnesota Statutes 1986, section 290.34, subdivision 2, is amended to read:

Subd. 2. AFFILIATED OR RELATED CORPORATIONS, COMBINED REPORT. (a) When a corporation which is required to file an income tax return is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or has its income regulated through contract or other arrangement, the commissioner of revenue may permit or require such combined report as, in the commissioner's opinion, is necessary in order to determine the taxable net income of any one of the affiliated or related corporations. ~~For purposes of computing either the arithmetic average or weighted apportionment formulas under section 290.19, subdivision 1 for each corporation involved, the numerator of the fraction shall be that corporation's sales, property, and payroll in Minnesota and the denominator shall be the total sales, payroll, and property of all the corporations shown on the combined report. The combined report shall reflect the income of the entire unitary business as provided in section 290.17, subdivision 2, clause (4). The combined report shall reflect income only from corporations created or organized in the United States or under the laws of the United States or of any state, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, or any political subdivision of any of the foregoing and from a FSC as defined in section 922 of the Internal Revenue Code of 1954, as amended through December 31, 1985. All intercompany transactions between companies which are contained on the combined report shall be eliminated. This subdivision shall not apply to insurance companies whose income is deter-~~

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mined under section 290.35 or to investment companies whose income is determined under section 290.36.

(b) If a corporation has been divested from the unitary group and is included in a combined report for a fractional part of the common accounting period that the report is based on, then the sales, property, and payroll attributed to the corporation in the apportionment formula must be prorated or separately accounted and must show for what part of the accounting period the corporation is included in the report.

(c) The combined report shall reflect the income of the entire unitary business as provided in section 290.17, subdivision 4. If a corporation has been divested from the unitary group and is included in the combined report for a fractional part of the common accounting period that the combined report is based on, its income includable in the combined report is its income for that part of the year.

Sec. 88. Minnesota Statutes 1986, section 290.35, is amended to read:

290.35 INSURANCE COMPANIES; REPORT OF NET INCOME; COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.

Subdivision 1. COMPUTATION OF TAXABLE NET INCOME. The taxable net income of insurance companies taxable under this chapter shall be computed as follows:

Each such company shall report to the commissioner the net income returned by it for the taxable year to the United States under the provisions of the act of congress, known as the revenue act of 1936, or that it would be required to return as net income thereunder if it were in effect. Notwithstanding the provisions of the Revenue Act of 1936, whether or not an insurance company is exempt from taxation must be determined under section 290.05.

Subd. 2. APPORTIONMENT OF TAXABLE NET INCOME. The commissioner shall compute therefrom the taxable net income of such companies by assigning to this state that proportion thereof which the gross premiums collected by them during the taxable year from old and new business within this state bears to the total gross premiums collected by them during that year from their entire old and new business, including reinsurance premiums; provided, the commissioner shall add to the taxable net income so apportioned to this state the amount of any taxes on premiums paid by the company by virtue of any law of this state (other than the surcharge on premiums imposed by sections 69.54 to 69.56) which shall have been deducted from gross income by the company in arriving at its total net income under the provisions of such act of congress.

(a) For purposes of determining the Minnesota apportionment percentage, premiums from reinsurance contracts assumed from companies domiciled in Minnesota and premiums in connection with property in or liability arising out of activity in, or in connection with the lives or health of Minnesota residents

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shall be assigned to Minnesota and premiums from reinsurance contracts assumed from companies domiciled outside of Minnesota and premiums in connection with property in or liability arising out of activity in, or in connection with the lives or health of non-Minnesota residents shall be assigned outside of Minnesota.

(b) The apportionment method prescribed by paragraph (a) shall be presumed to fairly and correctly determine the taxpayer's taxable net income. If the method prescribed in paragraph (a) does not fairly reflect all or any part of taxable net income, the taxpayer may petition for or the commissioner may require the determination of taxable net income by use of another method if that method fairly reflects taxable net income. A petition within the meaning of this section must be filed by the taxpayer on such form as the commissioner shall require.

Subd. 3. CREDIT. An insurance company shall receive a credit against the tax equal to any taxes based on premiums paid by it that are attributable to the period for which the tax under this chapter is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by sections 69.54 to 69.56.

Subd. 4. NONPROFIT HEALTH SERVICE CORPORATION. For purposes of this section, a nonprofit health service corporation is not an insurance company and the taxable income of a nonprofit health service corporation must be determined as provided under the Internal Revenue Code of 1986 and section 290.01, subdivisions 19c and 19d.

Sec. 89. Minnesota Statutes 1986, section 290.36, is amended to read:

290.36 INVESTMENT COMPANIES; REPORT OF NET INCOME; COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.

The taxable net income of investment companies shall be computed as follows:

Each investment company transacting business as such in this state shall report to the commissioner the net income returned by the company for the taxable year to the United States under the provisions of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, less the credits provided therein and subject to the adjustments required by this chapter. The commissioner shall compute therefrom the taxable net income of the investment company by assigning to this state that proportion of such net income, less such credits which the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of this state, bears to the total amount of the gross payments collected during such year by the company from such business upon investment contracts issued by the company and held by persons residing within the state and elsewhere.

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As used in this section, the term "investment company" means any person, copartnership, association, or corporation, whether local or foreign, coming within the purview of section 54.26, and who or which is registered under the Investment Company Act of 1940 (United States Code, title 15, section 80a-1 and following), as amended through December 31, 1986, and who or which solicits or receives payments to be made to itself and which issues therefor, or has issued therefor and has or shall have outstanding so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date; and as to whom the gross payments received during the taxable year in question upon outstanding investment contracts, plus interest and dividends earned on investment contracts determined by prorating the total dividends and interest for the taxable year in question in the same proportion that certificate reserves as defined by the Investment Company Act of 1940, as amended through December 31, 1986, is to total assets, shall be at least 50 percent of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year in question. The term "investment contract" shall mean any such so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement issued by an investment company.

Sec. 90. Minnesota Statutes 1986, section 290.37, subdivision 1, is amended to read:

Subdivision 1. **PERSONS MAKING RETURNS.** (a) ~~The commissioner of revenue shall annually determine the gross income levels at which individuals, trusts, and estates shall be required to file a return for each taxable year. A taxpayer shall file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's Minnesota gross income computed under section 290.06, subdivision 2e, clause (4)(1) derived from Minnesota sources under sections 290.081, paragraph (a), and 290.17, is less than the filing requirements for an a single individual who is a full year resident of Minnesota with the same marital status and number of personal credits.~~

The decedent's final income tax return, and all other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, shall be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns shall be filed by the transferees as defined in section 290.29, subdivision 3, who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount determined by the commissioner if such trust belongs to the class of taxable persons.

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Every corporation shall file a return, if the corporation is subject to the state's jurisdiction to tax under section 290.014, subdivision 5. The return in the case of a corporation must be signed by a person designated by the corporation. The commissioner may adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a corporation bank subject to tax under section 290.361. The return in the case of a corporation shall be signed by a person designated by the corporation this chapter. Members of an affiliated group that elect to file one return on behalf of the members of the group under rules adopted by the commissioner may modify or rescind the election by filing the form required by the commissioner.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if a return is required.

(b) Such return shall (1) contain a written declaration that it is correct and complete, and (2) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

(e) For purposes of this subdivision the term "gross income" shall mean gross income as defined in section 61 of the Internal Revenue Code of 1954, as amended through December 31, 1985, modified and adjusted in accordance with the provisions of sections 290.01, subdivision 20b, clauses (1), (6), (7), and (8), 290.08, and 290.17.

Sec. 91. Minnesota Statutes 1986, section 290.37, subdivision 3, is amended to read:

Subd. 3. **INFORMATION INCLUDED IN RETURN.** The return ~~provided for herein~~ shall require a statement of the name of the taxpayer, or taxpayers, if the return ~~be is~~ a joint return, and the address of ~~such the~~ taxpayer in the same name or names and same address as the taxpayer has used in making the taxpayer's income tax return to the United States ~~under the terms of the internal revenue code of 1954,~~ and shall include the social security number of the taxpayer, or taxpayers, if a social security number has been issued by the United States with respect to ~~said the~~ taxpayers, and shall include the amount of the ~~adjusted gross taxable income of such the~~ taxpayer as the same ~~it~~ appears on ~~said the federal return to the United States internal revenue service for the taxable year to which such the Minnesota state return is applicable; and the commissioner may require.~~ The taxpayer ~~to shall~~ attach to the taxpayer's Minnesota state income tax return a copy of the federal income tax return which the taxpayer has filed or is about to file for ~~such the~~ period.

Sec. 92. [290.371] **NOTICE OF BUSINESS ACTIVITIES REPORT.**

Subdivision 1. REPORT REQUIRED. Every corporation that, during any calendar year or fiscal accounting year ending after December 31, 1986, carried

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on any activity or owned or maintained any property in this state, unless specifically exempted under subdivision 3, must file a notice of business activities report, as provided in this section. Filing of the report is not a factor in determining whether a corporation is subject to taxation under this chapter.

Subd. 2. ACTIVITIES. Activities or property maintenance in this state which require corporations to file this report are:

(1) the maintenance in this state of an office or other place of business;

(2) the maintenance of personnel in Minnesota, including the presence of employees, agents, representatives, or independent contractors in connection with the corporation's business, even though not residing in or regularly stationed in Minnesota;

(3) the ownership or maintenance of real property, tangible personal property, or intangible property used by the corporation in Minnesota; and

(4) any of the activities referred to in section 290.015, subdivision 1, clauses (3) to (8).

Subd. 3. EXEMPTIONS. A corporation is not required to file a notice of business activities report if:

(1) by the end of an accounting period for which it was otherwise required to file a notice of business activities report under this section, it had received a certificate of authority to do business in this state;

(2) a timely return or report has been filed under section 290.05, subdivision 4; or 290.37; or

(3) the corporation is exempt from taxation under this chapter pursuant to section 290.05, subdivision 1.

Subd. 4. ANNUAL FILING. Every corporation not exempt under subdivision 3 must file annually a notice of business activities report, including such forms as the commissioner may require, with respect to all or any part of each of its calendar or fiscal accounting years beginning after December 31, 1986, on or before the 15th day of the fourth month after the close of the calendar or fiscal accounting year.

Subd. 5. FAILURE TO FILE TIMELY REPORT. (a) Any corporation required to file a notice of business activities report does not have any cause of action upon which it may bring suit under Minnesota law unless the corporation has filed a notice of business activities report.

(b) The failure of a corporation to file a timely report prevents the use of the courts in this state for all contracts executed and all causes of action that arose at any time before the end of the last accounting period for which the corporation failed to file a required report.

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(c) The court in which the issues arise has the power to excuse the corporation for its failure to file a report when due, and restore the corporation's cause of action under the laws of this state, if the corporation has paid all taxes, interest, and civil penalties due the state for all periods, or provided for payment of them by adequate security or bond approved by the commissioner.

Sec. 93. Minnesota Statutes 1986, section 290.38, is amended to read:

290.38 RETURNS OF MARRIED PERSONS.

A husband and wife must file a joint Minnesota income tax return if they filed a joint federal income tax return. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. If the husband and wife have elected to file separate federal income tax returns they must file separate Minnesota income tax returns. This election to file a joint or separate returns must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, such change shall be done in the manner and on such form as the commissioner shall prescribe by rule.

The determination of whether an individual is married ~~is shall be~~ made as of the close of that person's taxable year; except that if that person's spouse dies during the taxable year the determination is made as of the time of the death. An individual who is legally separated from a spouse under a decree of divorce, dissolution, or of separate maintenance is not considered to be married under provisions of section 7703 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the personal representative of the decedent's estate; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both the survivor and the decedent if (a) no return for the taxable year has been made by the decedent; (b) no personal representative has been appointed; and (c) no personal representative is appointed before the last day prescribed by law for filing the return of the surviving spouse. If a personal representative of the estate of the decedent is appointed after the joint return has been filed by the surviving spouse, the personal representative may disaffirm such joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made; in which case the return made by the survivor shall constitute the survivor's separate return provided that the election has been also disaffirmed for federal purposes.

Sec. 94. Minnesota Statutes 1986, section 290.39, subdivision 3, is amended to read:

Subd. 3. **SHORT FORM FORMS.** The commissioner shall provide for use a long form individual income tax return and may provide for use a short

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form individual income tax return ~~which~~. The returns shall be in the form and provide for items as the commissioner may prescribe which are consistent with the provisions of this chapter, notwithstanding any other law to the contrary. The political checkoff provided in section 10A.31 nongame wildlife checkoff provided in section 290.431 and the dependent care credit provided in section 290.067 shall be included on the short form.

Sec. 95. Minnesota Statutes 1986, section 290.41, subdivision 2, is amended to read:

Subd. 2. **BY PERSONS, CORPORATIONS, COOPERATIVES, GOVERNMENTAL ENTITIES OR SCHOOL DISTRICTS.** To the extent required by section 6041 of the Internal Revenue Code of 1986, as amended through December 31, 1986, every person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and every city, county and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation of \$600 or more on account of rents or royalties, or of \$10 or more on account of interest, or \$10 or more on account of dividends or patronage dividends, or \$600 or more on account of either wages, salaries, commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable gains, profits or income, not otherwise reportable under section 290.92, subdivision 7, or on account of earnings of \$10 or more distributed to its members by savings, building and loan associations or credit unions chartered under the laws of this state or the United States, (a) shall make a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and such return is therefore filed only with the commissioner of internal revenue pursuant to the applicable filing and informational reporting requirements of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986) in respect to such payments in excess of the amounts specified, giving the names and addresses of the persons to whom such payments were made, the amounts paid to each, and (b) shall make a return in respect to the total number of such payments and total amount of such payments, for each category of income specified, which were in excess of the amounts specified. This subdivision shall not apply to the payment of interest or dividends to a person who was a nonresident of Minnesota for the entire year.

A person, corporation, or cooperative required to file returns under this subdivision on interest, dividends, or patronage dividend payments with respect to more than 50 payees for any calendar year must file all of these returns on magnetic media unless the person establishes to the satisfaction of the commissioner that compliance with this requirement would be an undue hardship.

Sec. 96. Minnesota Statutes 1986, section 290.41, subdivision 3, is amended to read:

Subd. 3. **BY BROKERS.** The commissioner of revenue may require every person doing business as a broker to furnish the commissioner with the name

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and address of each customer for whom they have transacted business, and with such details regarding gross proceeds and other information as to transactions of any customer as will enable the commissioner to determine whether all income tax due on profits or gains of such customers has been paid. The provisions of section 6045 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, which define terms and provide the requirements that a statement be furnished to the customer shall apply.

Sec. 97. Minnesota Statutes 1986, section 290.42, is amended to read:

290.42 FILING RETURNS, DATE.

The returns required to be made under sections 290.37 to 290.39 and 290.41, other than those under section 290.41, subdivisions 3 and 4, which shall be made within 30 days after demand therefor by the commissioner, shall be filed at the following times:

(1) Returns made on the basis of the calendar year shall be filed on the fifteenth day of April, following the close of the calendar year, except that returns of corporations shall be filed on the fifteenth day of March following the close of the calendar year;

(2) Returns made on the basis of the fiscal year shall be filed on the fifteenth day of the fourth month following the close of such fiscal year, except that returns of corporations shall be filed on the fifteenth day of the third month following the close of the fiscal year;

(3) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall be filed on the fifteenth day of the fourth month following the close of the period for which made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the close of the period for which made;

(4) Other returns for a fractional part of a year shall be filed on the fifteenth day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the end of the month in which falls the last day of the period for which the return is made:

In the case of a final return of a decedent for a fractional part of a year, such return shall be filed on the fifteenth day of the fourth month following the close of the 12-month period which began with the first day of such fractional part of a year.

(4a) In the case of the return of a cooperative association such returns shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(4b) If a corporation has been divested from a unitary group and files a return for a fractional part of a year in which it was a member of a unitary business that files a combined report under section 290.34, subdivision 2, the divested corporation's return must be filed on the 15th day of the third month

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following the close of the common accounting period that includes the fractional year.

(5) If the due date for any return required under this chapter falls upon:

A Saturday, Sunday, or a legal holiday such return filed by the next succeeding day which is not a Saturday, Sunday, or legal holiday shall be considered to be timely filed. The term "legal holiday" means any day made a holiday in Minnesota by section 645.44, subdivision 5 or by the laws of the United States.

(6) In case of sickness, absence, or other disability, or when, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing these returns for not more than six months, except as provided for corporations and except that where the failure is due to absence outside the United States the commissioner may extend the period as provided in section 6081 of the Internal Revenue Code of 1954, as amended through December 31, 1985. The commissioner may require each taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from the taxpayer, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. The commissioner may grant an extension of up to seven months for filing the return of a corporation subject to tax under this chapter if the corporation files a tentative return at the time fixed for filing the regularly required return and pays the tax on the basis of the tentative return in accordance with this section and section 290.45.

(7) Every person making a return under section 290.41 (except subdivisions 3 and 4) shall furnish to each person whose name is set forth in the return a written statement showing

(A) the name and address of the person making the return, and

(B) the aggregate amount of payments to the person shown on the return.

This written statement shall be furnished to the person on or before January 31 of the year following the calendar year for which the return was made. A duplicate of this written statement shall be furnished to the commissioner on or before February 28 of the year following the calendar year for which the return was made.

Sec. 98. Minnesota Statutes 1986, section 290.45, subdivision 1, is amended to read:

Subdivision 1. **DATE DUE, INSTALLMENTS.** The tax imposed by this chapter shall be paid to the commissioner of revenue at the time fixed for filing the return on which the tax is based; ~~except that at the election of estates the balance of tax due may be paid in two equal installments.~~

~~The first shall be paid at the time fixed for filing the return, and the second on or before six months thereafter.~~

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~~If any installment is not paid on or before the date fixed for its payment the whole amount of the tax unpaid shall become due and payable. They shall be paid to the commissioner or to the local officers designated by the commissioner with whom the return is filed as hereinbefore provided.~~

Sec. 99. Minnesota Statutes 1986, section 290.45, subdivision 2, is amended to read:

Subd. 2. **EXTENSIONS.** 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 specified in section 270.75 on or before the date of the expiration of the period of the extension.

Sec. 100. Minnesota Statutes 1986, section 290.46, is amended to read:

290.46 EXAMINATION OF RETURNS; ASSESSMENTS, REFUNDS.

The commissioner shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that the commissioner may deem necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer on the return which have not yet been paid shall be paid to the commissioner within 60 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided by section 290.50 (except that no demand therefor shall be necessary), if the taxpayer has already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 290.50.

The commissioner, on examining returns of a taxpayer for more than one year, may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 290.46 to 290.48 shall be in such form as the commissioner may determine (including a statement) and

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shall contain a brief explanation of the computation of the tax and shall be sent by mail to the taxpayer at the address given in the return, or to the taxpayer's last known address.

In cases where there has been an overpayment of a self-assessed liability as shown on the return filed by the taxpayer, the commissioner may refund such overpayment to the taxpayer and no demand therefor shall be necessary; further, written findings by the commissioner, notice by mail to the taxpayer and certificate for refundment by the commissioner shall not be necessary and the provisions of section 270.10, in such case, shall not be applicable.

~~In the case of an individual, estate or trust, The commissioner may audit and adjust the taxpayer's computation of federal adjusted gross income (or federal taxable income for estates or trusts) to make it properly conform with the provisions of section 290.01, subdivision 20 subdivisions 19 to 19e, or the items of federal tax preferences or federal credit amounts to make them properly conform with the provisions of this chapter. In the case of an individual, the commissioner may audit and adjust the taxpayer's computation of itemized deductions to make them properly conform with the provisions of section 290.089.~~

Sec. 101. Minnesota Statutes 1986, section 290.48, subdivision 10, is amended to read:

Subd. 10. **PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.** (a) If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash, or does not claim it belongs to another person whose identity the commissioner can readily ascertain and who acknowledges ownership of such cash, then, for purposes of subdivisions 3 and 4, it shall be presumed that the cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) In the case of any assessment resulting from the application of clause (a), the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs, such income shall be treated as taxable at an eight percent rate, and except as provided in clause (c), the possessor of the cash shall be treated (solely with respect to the cash) as the taxpayer for purposes of this chapter and the assessment and collection of the tax.

(c) If, after an assessment resulting from the application of clause (a), the assessment is abated and replaced by an assessment against the owner of the cash, the later assessment shall be treated for purposes of all laws relating to lien, levy, and collection as relating back to the date of the original assessment.

(d) For purposes of this subdivision, the definitions contained in section 6867 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall apply.

Sec. 102. Minnesota Statutes 1986, section 290.491, is amended to read:

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290.491 TAX ON GAIN; DISCHARGE IN BANKRUPTCY.

(a) Any tax due under this chapter on a gain realized on a forced sale pursuant to foreclosure of a mortgage or other security interest in agricultural production property, other real property, or equipment, used in a farm business that was owned and operated by the taxpayer shall be a dischargeable debt in a bankruptcy proceeding under United States Code, title 11, section 727.

(b) ~~Income realized on a sale or exchange of agricultural production property; other real property; or equipment; used in a farm business that was owned and operated by the taxpayer shall be exempt from taxation under this chapter; if the taxpayer was insolvent at the time of the sale and the proceeds of the sale were used solely to discharge indebtedness secured by a mortgage, lien or other security interest on the property sold. For purposes of this section, "insolvent" means insolvent as defined in section 108(d)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985. This paragraph applies only to the extent that the gain is includable in federal adjusted gross income or in the computation of the alternative minimum taxable income under section 290.091 for purposes of the alternative minimum tax. The amount of the exemption is limited to the excess of the taxpayer's (1) liabilities over (2) the total assets and any exclusion claimed under section 108 of the Internal Revenue Code of 1954, as amended through December 31, 1985, determined immediately before application of this paragraph.~~

(e) For purposes of this section, any tax due under this chapter specifically includes, but is not limited to, tax imposed under sections 290.02 and 290.03 on income derived from a sale or exchange, whether constituting gain, discharge of indebtedness or recapture of depreciation deductions, or the alternative minimum tax imposed under section 290.091.

Sec. 103. Minnesota Statutes 1986, section 290.50, subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE, TIME LIMIT.** (a) A taxpayer who has paid or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner a claim for a refund of such excess. Except as otherwise provided in this section, no claim or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the taxpayer. For this purpose an income tax return or amended return claiming an overpayment shall constitute a claim for refund.

(b) If no claim was filed, the credit or refund shall not exceed the amount which would be allowable if a claim was filed on the date the credit or refund is allowed.

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(c) If a claim relates to an overpayment on account of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim shall be allowed if filed within seven years from the date prescribed in section 290.42 for the filing of the return, and the refund or credit shall be limited to the amount of overpayment attributable to the loss.

(d) For purposes of this section, the prepayment of tax made through the withholding of tax at the source, or payment of estimated tax, prior to the due date of the tax are considered as having been paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date shall be considered as filed on the due date.

(e) Except as provided in sections 273.1314, subdivision 10a, 290.92, subdivision 13, 290.93, subdivision 9, and 290.936, interest on the overpayment refunded or credited to the taxpayer shall be allowed at the rate specified in section 270.76 computed from the date of payment of the tax until the date the refund is paid or credit is made to the taxpayer. However, to the extent that the basis for the refund is a net operating loss carryback or a capital loss carryback, interest shall be computed only from the end of the taxable year in which the loss occurs.

(f) If a taxpayer reports a change in federal gross income, items of tax preference, deductions, credits, or a renegotiation, or files a copy of the taxpayer's amended federal return, within 90 days as provided by section 290.56, subdivision 2, a refund may be made of any overpayment within one year after such report or amended return is filed except as provided in subdivision 2.

(g) There is hereby appropriated from the general fund to the commissioner of revenue the amounts necessary to make payments of refunds allowed pursuant to this section.

Sec. 104. Minnesota Statutes 1986, section 290.56, subdivision 2, is amended to read:

Subd. 2. **CHANGE IN FEDERAL RETURN.** If the amount of ~~gross~~ income, items of tax preference, deductions, or credits for any year of any taxpayer as reported to the Internal Revenue Service is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in ~~gross~~ income, items of tax preference, deductions, or credits, such taxpayer shall report in writing to the commissioner, in such form as the commissioner may require, such change or correction, or the results of such renegotiation, within 90 days ~~thereafter~~ after the final determination of the change, correction, or renegotiation, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter a copy of such amended return with the commissioner of revenue.

Sec. 105. Minnesota Statutes 1986, section 290.92, subdivision 2a, is amended to read:

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Subd. 2a. **COLLECTION AT SOURCE.** (1) **DEDUCTIONS.** Every employer making payment of wages shall deduct and withhold upon such wages a tax as provided in this section.

(2) **WITHHOLDING ON PAYROLL PERIOD.** The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.

(3) **WITHHOLDING TABLES.** Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during the individual's taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under this chapter for that taxable year, upon the individual's salary, wages, or compensation for personal services of any kind for the employer; ~~and shall take into consideration the deduction allowable under section 290.089, subdivision 3, and the personal credits allowed against the tax.~~

(4) **MISCELLANEOUS PAYROLL PERIOD.** If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(5) **MISCELLANEOUS PAYROLL PERIOD.** (a) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(b) In any case in which the period, or the time described in clause (a), in respect of any wages is less than one week, the commissioner, under rules prescribed by the commissioner, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(6) **WAGES COMPUTED TO NEAREST DOLLAR.** If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.

(7) **RULES ON WITHHOLDING.** The commissioner may, by rule, authorize employers:

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(a) to estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

(8) **ADDITIONAL WITHHOLDING.** The commissioner is authorized to provide by rule for increases or decreases in the amount of withholding otherwise required under this section in cases where the employee requests the changes. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.

(9) **TIPS.** In the case of tips which constitute wages, this subdivision shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, and only to the extent that the tax can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053 of the Internal Revenue Code of ~~1954~~ 1986 as amended through December 31, ~~1985~~ 1986, to which subdivision 1 is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under the employer's control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of employment by such employer is less than \$20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds as are under the control of the employer minus any tax required by other provisions of state or federal law to be collected from such wages and funds.

(10) **VEHICLE FRINGE BENEFITS.** An employer shall not deduct and withhold any tax under this section with respect to any vehicle fringe benefit provided to an employee if the employer has so elected for federal purposes and the requirement of and the definition contained in section 3402(s) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, are complied with.

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Sec. 106. Minnesota Statutes 1986, section 290.92, subdivision 4a, is amended to read:

Subd. 4a. **TAX WITHHELD FROM NONRESIDENTS.** (1) **"WAGES" PAID TO NONRESIDENT EMPLOYEES.** For the purposes of this section: The term "wages" means all remuneration taxable under this chapter including all remuneration paid to a nonresident employee for services performed in this state.

(2) **"EMPLOYER," "WAGES" AND "EMPLOYEE" CONCERNING NON-RESIDENTS.** Notwithstanding any other provision of this section, under rules to be prescribed by the commissioner of revenue, for purposes of this section any person having control, receipt, custody, disposal or payment of compensation taxable under this chapter and earned by a nonresident for personal services, shall be deemed an employer, any compensation taxable under this chapter and earned by a nonresident for personal services shall be deemed wages, and a nonresident entitled to compensation taxable under this chapter and earned by the nonresident for personal services shall be deemed an employee.

When compensation for personal services is paid to a corporation in which all or substantially all of the shareholders are individual entertainers, performers or athletes who gave an entertainment or athletic performance in this state for which the compensation was paid, the compensation shall be deemed wages of the individual entertainers, performers or athletes and shall be subject to the provisions of this section. Advance payments of compensation for personal services to be performed in Minnesota shall be deemed wages and subject to the provisions of this section. ~~The individual, and not the corporation, shall be subject to the Minnesota income tax as provided in this chapter on the compensation for personal services.~~

(3) **NONRESIDENTS, EMPLOYER'S DUTY.** The employer of any employee domiciled in a state with which Minnesota has reciprocity under section 290.081 is not required to withhold under this chapter from the wages earned by such employee in this state if the employee annually submits to the employer an affidavit of residency in the form prescribed by the commissioner. The affidavit must be submitted by the later of

(i) 30 days after the employment date or

(ii) August 31 for calendar year 1987 and February 28 for subsequent calendar years.

Sec. 107. Minnesota Statutes 1986, section 290.92, subdivision 5, is amended to read:

Subd. 5. **EXEMPTIONS.** (1) **ENTITLEMENT.** An employee receiving wages shall on any day be entitled to claim withholding exemptions ~~equal to the same number as the personal credits that the employee is entitled to claim under the provisions of section 290.06; subdivision 3f; (not including those credits that the taxpayer's spouse may claim)~~ in a number not to exceed the number of

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withholding exemptions that the employee claims and that are allowable pursuant to section 3402(f)(1), (m), and (n) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for federal withholding purposes.

(2) **WITHHOLDING EXEMPTION CERTIFICATE.** The provisions concerning exemption certificates contained in section 3402(f)(2) and (3) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall apply.

(3) **FORM OF CERTIFICATE.** Withholding exemption certificates shall be in such form and contain such information as the commissioner may by rule prescribe.

(4) **NUMBER MAY BE SAME AS THAT FOR FEDERAL PURPOSES.** Notwithstanding the provisions of this subdivision, an employee may elect to claim a number not to exceed the number of withholding exemptions that the employee claims and which are allowable for federal withholding purposes.

Sec. 108. Minnesota Statutes 1986, section 290.92, subdivision 5a, is amended to read:

Subd. 5a. **VERIFICATION OF WITHHOLDING EXEMPTIONS; APPEAL.**

(1) An employer shall submit to the commissioner a copy of any withholding exemption certificate or any affidavit of residency received from an employee on which the employee claims any of the following:

(a) a total number of withholding exemptions in excess of ~~14~~ ten or a number prescribed by the commissioner, or

(b) a status that would exempt the employee from Minnesota withholding, including where the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), except where the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or

(c) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(2) Copies of exemption certificates and affidavits of residency required to be submitted by clause (1) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that the employer is required to submit them to the Internal Revenue Service.

(3) An employer who submits a copy of a withholding exemption certificate in accordance with clause (1) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate

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unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with clause (4).

(4) The commissioner may require an employee to verify entitlement to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, to verify nonresidency. The employee shall be allowed at least 30 days to submit the verification, after which time the commissioner shall, on the basis of the best information available to the commissioner, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question or to the last known address of the employee. Notwithstanding the provisions of section 290.61, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

However, where the commissioner has reasonable grounds for believing that the employee is about to leave the state or that the collection of any tax due under this chapter will be jeopardized by delay, the commissioner may immediately notify the employee and the employer, notwithstanding section 290.61, that the certificate is invalid, and the employer must not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner.

(5) The commissioner's determination under clause (4) shall be appealable to tax court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Sec. 109. Minnesota Statutes 1986, section 290.92, subdivision 6, is amended to read:

Subd. 6. **RETURNS, DEPOSITS.** (1)(a) **RETURNS.** Every employer who is required to deduct and withhold tax under subdivision 2a or 3 shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by

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the commissioner. The commissioner may grant a reasonable extension of time for filing the return, but no extension shall be granted for more than ~~six months~~ 60 days.

(b) **ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.** (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3 exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

(c) **OTHER METHODS.** The commissioner may by rule prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which the commissioner deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year.

(2) If less than the correct amount of tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in the manner and at the times as the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment shall be assessed and collected in the manner and at the times as the commissioner prescribes.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed, or makes and files a false or fraudulent return, the commissioner shall make for the employer a return from the commissioner's own knowledge and from information the commissioner obtains through testimony, or otherwise, and assess a tax on the basis of it. The amount of tax shown on it shall be paid to the commissioner at the times as the commissioner prescribes. Any return or assessment made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect to it.

(4) The commissioner, in any case, on having reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, may immedi-

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ately assess the tax, whether or not the time otherwise prescribed by law for making and filing the return and paying the tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with rules prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within 3-1/2 years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

(7)(a) Except as provided in (b) of this paragraph, every employer who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state for the sum or sums (and any added penalties and interest). Any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or 3 shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(8) Upon the failure of any employer to pay to or deposit with the commissioner, within the time provided by paragraph (1), (2), or (3) of this subdivision, any tax required to be withheld in accordance with the provisions of subdivision 2a or 3, or if the commissioner has assessed a tax pursuant to paragraph (4), the tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from the employer. The statement shall also give the address of the employer owing the tax, the period for which the tax is due, the date of the delinquency, and any other information required by the attorney general. The attorney general shall institute legal action in the name of the state to recover the amount of the tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts stated in it and that the amount shown in it is due from the employer named in the statement. If an action is instituted, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding it as

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security for any judgment which has been or may be recovered. Any action must be brought within five years after the date of assessment of any tax under this subdivision.

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

(10) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added to it.

Sec. 110. Minnesota Statutes 1986, section 290.92, subdivision 15, is amended to read:

Subd. 15. **PENALTIES.** (1) 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, there shall be added to the tax a penalty equal to 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 the failure continues, not exceeding 25 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount 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 added shall be collected in the same manner as the tax.

(2) 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, willfully fails to withhold the tax or make the deposits, files a false or fraudulent return, willfully fails to make the payment or deposit, or willfully attempts in any manner to evade or defeat the tax or the payment or deposit of it, there shall also be imposed on the employer as a penalty an amount equal to 50 percent of the amount of tax, less any amount paid or deposited by the employer on the basis of the false or fraudulent return or deposit, that should have been properly

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withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. 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.

(3) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of the statements, and quarterly returns, to the commissioner, willfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements, and quarterly returns, to the commissioner, or willfully fails to furnish a statement or the reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, there shall be imposed on the person a penalty of \$50 for each act or failure to act, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000. The penalty imposed by this paragraph is 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, paragraph (8).

(4) In addition to any other penalties prescribed, any person required to withhold a tax on wages, file quarterly returns, and make payments or deposits to the commissioner of amounts withheld, as required by this section, who attempts to evade the tax by (i) willfully failing to withhold the tax, file the return, or make the payment or deposit, or (ii) willfully preparing or filing a false return, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony.

(5) In lieu of any other penalty provided by law, except the penalty provided by paragraph (3), any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who willfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, is guilty of a gross misdemeanor.

(6) Any employee required to supply information to an employer under the provisions of subdivision 5, who willfully fails to supply information or willfully supplies false or fraudulent information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or 3, is guilty of a gross misdemeanor.

(7) 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 an

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officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(8) All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

(9) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate or a residency affidavit to an employer which the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance. The penalty is immediately due and payable and may be collected in the same manner as any delinquent income tax.

(10) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate or a residency affidavit required by subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty is immediately due and payable and may be collected in the manner provided in subdivision 6, paragraph (8).

(11) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this section, of a return, affidavit, claim, or other document, which is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a gross misdemeanor, unless the tax involved exceeds \$300, in which event the actor is guilty of a felony.

(12) Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 111. Minnesota Statutes 1986, 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 (5) or (6), there must be added to and become a part of the taxes imposed by this chapter, for the taxable year an amount determined at the rate specified in section 270.75 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

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- (a) the amount of the installment required to be paid 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 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 subparagraph, a payment of estimated tax on any installment date shall be considered a payment of any unpaid required installments in the order in which the installments are required to be paid.
- (4) The amount of any installment required to be paid shall be 25 percent of the required annual payment except as provided in paragraph (c). The term "required annual payment" means the lesser of
- (a) 80 90 percent (66-2/3 percent in the case of farmers referred to in subdivision 5, paragraph (2)), of the tax shown on the return for the taxable year or 80 90 percent (66-2/3 percent in the case of farmers referred to above) of the tax for the year if no return is filed, or
- (b) 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
- (c) An amount equal to the applicable percentage of the tax for the taxable year (~~after deducting personal credits~~) computed by placing on an annualized basis the taxable income and alternative minimum taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The applicable percentage of the tax is 20 22.5 percent in the case of the first installment, 40 45 percent for the second installment, 60 67.5 percent for the third installment, and 80 90 percent for the fourth installment. For purposes of this subparagraph, the taxable income and alternative minimum 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 and alternative minimum taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.
- (ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls.
- (5) No addition to the tax shall be imposed under this subdivision for any taxable year if:
- (a) the individual did not have any liability for tax for the preceding taxable year,

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(b) the preceding taxable year was a taxable year of 12 months, and

(c) the individual was a resident of Minnesota throughout the preceding taxable year.

(6) No addition to the tax shall be imposed under this subdivision with respect to any underpayment to the extent the commissioner determines that the provisions of section 6654(e)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985, apply.

(7) For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as the individual's credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and any other refundable credits which are allowed against income tax liability, and the amount of such credits for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amounts shall be deemed paid on each installment date (determined under subdivisions 6 and 7) 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.

Sec. 112. Minnesota Statutes 1986, section 290.934, subdivision 2, is amended to read:

Subd. 2. **AMOUNT OF UNDERPAYMENT.** For purposes of subdivision 1, the amount of the underpayment shall be the excess of

(1) the amount of ~~the installment tax shown on the return for the tax year~~ or, if no return is filed, the tax for the tax year, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 113. Minnesota Statutes 1986, section 290.9725, is amended to read:

290.9725 ELECTION BY SMALL BUSINESS CORPORATION.

Any corporation having a valid election in effect under section 1362 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall not be subject to the taxes imposed by this chapter, except ~~the tax imposed under section 290.92;~~

(1) the corporation is subject to the tax imposed under section 290.92; and

(2) the corporation is subject to the tax imposed under section 290.02 in any tax period in which it recognizes income for federal income tax purposes under Internal Revenue Code, Section 1363(d), 1374, or 1375; the total amount of income recognized is the federal taxable income for the corporation within the meaning of section 290.01, subdivision 19; the provisions of sections 290.01,

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subdivisions 19a to 19f, and 290.17 to 290.20, must be employed to determine the taxable net income of the corporation; and the taxable net income of the corporation is its taxable income, except that any net operating loss carryforward that arose in a year when there was no election in effect under Section 1362 of the Internal Revenue Code is allowed as a deduction.

Sec. 114. Minnesota Statutes 1986, section 290.9726, subdivision 1, is amended to read:

Subdivision 1. **GENERAL RULE.** The gross income of the shareholders of corporations described in section 290.9725 shall be computed under the provisions of section 290.01, ~~subdivisions~~ subdivision 20 to 20f.

Sec. 115. Minnesota Statutes 1986, section 290.9726, subdivision 2, is amended to read:

Subd. 2. **CHARACTER OF ITEMS DISTRIBUTED OR CONSIDERED DISTRIBUTED.** The character of any item of income, gain, loss, or deduction included in shareholder's income, for the period of time that the shareholder is not a resident of Minnesota, shall be assignable as provided in section 290.17, subdivision 2, determined as if the item were realized directly from the source from which it was realized by the corporation or incurred in the same manner as incurred by the corporation.

Sec. 116. Minnesota Statutes 1986, section 290.9726, subdivision 4, is amended to read:

Subd. 4. **TREATMENT OF FAMILY GROUPS.** Any amount of taxable income apportioned or allocated to a shareholder may be apportioned reappor- tioned or allocated by the commissioner between or among shareholders of the corporation who are members of the shareholder's family, as defined in section 290.10, clause (6) reallocated under the provisions of section 1366(e) of the Internal Revenue Code of 1986, as amended through December 31, 1986, if the commissioner determines that the apportionment or allocation is it necessary in order to correctly reflect the value of services rendered to the corporation by the shareholders.

Sec. 117. Minnesota Statutes 1986, section 290.974, is amended to read:

290.974 **RETURN OF S CORPORATION.**

Every S corporation shall make a return for each taxable year during which said election is in effect stating specifically the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information for the purposes of carrying out the provisions of sections 290.01, ~~subdivisions 20 19 to 20f~~ 19b and 290.9725 as the commissioner may by forms and rules prescribe.

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Sec. 118. [290.9741] ELECTION BY REMIC.

An entity having a valid election as a Real Estate Mortgage Investment Conduit (REMIC) in effect under section 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall not be subject to the taxes imposed by this chapter except the tax imposed under section 290.92.

Sec. 119. [290.9742] REMIC INCOME TAXABLE TO HOLDERS OF INTERESTS.

The income of a REMIC is taxable to the holders of interests in the REMIC as provided in sections 860A to 860G of the Internal Revenue Code of 1986, as amended through December 31, 1986. The income of the holders must be computed under the provisions of this chapter.

Sec. 120. ESTIMATED TAXES, EXCEPTION.

Subdivision 1. CORPORATE MINIMUM TAX. For taxable years beginning after December 31, 1986, but before January 1, 1988, the commissioner of revenue may not assess any penalties, interest, or additions to tax that are the result of the taxpayer's failure to make sufficient estimated tax payments due to the alternative minimum tax imposed by section 290.092. This exception shall apply only to the extent that the corporation's liability for the alternative minimum tax increases the corporation's liability under the franchise tax imposed by section 290.02.

Subd. 2. CORPORATE INCOME DEFINITION. No addition to tax, penalties or interest may be made under Minnesota Statutes, section 290.53 or 290.934 for any period before December 15, 1987, with respect to an underpayment of estimated tax, to the extent the underpayment was created or increased by the enactment of changes in the definition of taxable income enacted as part of the Tax Reform Act of 1986, Public Law Number 99-514, and adopted by reference to federal law.

Subd. 3. INDIVIDUAL SUBTRACTIONS ELIMINATED. No addition to tax, penalties, or interest may be made under Minnesota Statutes, section 290.53 or 290.93, for any period before January 15, 1988, with respect to an underpayment of estimated tax, to the extent that the underpayment was created or increased by elimination of the subtractions for pension income, military pay, or unemployment compensation.

Sec. 121. LUMP SUM DISTRIBUTIONS.

If an individual elects to treat a lump sum distribution received after December 31, 1986, and before March 16, 1987, as if it were received in taxable year 1986 under section 1124 of the Tax Reform Act of 1986, Public Law Number 99-514, the individual shall treat the distribution as if it were received in taxable year 1986 for purposes of the lump sum distribution tax imposed under Minnesota Statutes 1986, section 290.032.

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Sec. 122. **ALTERNATIVE MINIMUM TAX.**

In taxable years beginning prior to January 1, 1988, for purposes of the tax imposed by Minnesota Statutes, section 290.091, section 13208(a), of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law Number 99-272, shall be effective at the same time that it became effective for federal income tax purposes. The time limit for filing a claim or an amended return for the year 1982 shall be the same as the time provided under section 1896 of the Tax Reform Act of 1986, Public Law Number 99-514, for the filing of a similar claim or amended return for federal purposes.

Sec. 123. **MINISTERS; MILITARY PERSONNEL.**

Mortgage interest and property taxes paid by a minister or by military personnel allocable to a parsonage allowance or an offbase military allowance are deductible for all taxable years to the extent allowed by section 144 of the Tax Reform Act of 1986, Public Law Number 99-514.

Sec. 124. **DEPARTMENT OF REVENUE STUDY.**

The department of revenue shall study application of the income tax allocation and apportionment rules with respect to income from highly technologically related agricultural production. The department must consider whether the following types of income are income from the operation of a farm:

(1) income of a taxpayer from an operation classified by the United States Department of Commerce Standard Industrial Classification as industrial, manufacturing, or distribution;

(2) income attributable to activities that occur prior to the commencement of the biological process creating the product or other value or after the biological process terminates;

(3) income attributable to testing; research; genetic or biological selection; genetic engineering; creation or licensing of patents, copyrights, trademarks, or other intellectual property; processing, packaging, grading, promotion, or distribution of products or value attributable thereto;

(4) income from any activity, which, if performed by another person not otherwise engaged in farming, would not in itself be farming; or

(5) income derived from the sale, exchange, or distribution of living livestock and poultry purchased or leased by the taxpayer.

The study shall also consider how income should be apportioned between farm and nonfarm activities, particularly if:

(i) one or more activities or businesses of the taxpayer is wholly separate and unrelated to the taxpayer's farm income; or

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(ii) a small proportion of the taxpayer's income is income from the operation of a farm.

In conducting the study the department shall solicit advice and comments from persons outside state government.

The department of revenue shall report to the committee on taxes and tax laws in the senate and the tax committee of the house of representatives by January 1, 1988. The report must summarize the scope and methodology of the study, the conclusions reached, and recommendations for legislation, if any.

Sec. 125. PURPOSE.

It is the intent of the legislature to simplify Minnesota's income tax. In order to simplify, many complicating provisions are repealed by this article and the revenue is used to fund income tax relief. It is the clear intent of the legislature to eliminate all carryovers and basis adjustments of these complicating provisions and conform with federal tax law as quickly as possible.

Sec. 126. INSTRUCTION TO REVISOR.

In the next edition of Minnesota Statutes, the revisor of statutes shall substitute the phrase "Internal Revenue Code of 1986, as amended through December 31, 1986" for the words "Internal Revenue Code of 1954 as amended through December 31, 1985" wherever that phrase occurs in chapter 290, except in section 290.01, subdivisions 19(e) and 20, and in chapter 291.

Sec. 127. REPEALER.

Minnesota Statutes 1986, sections 290.01, subdivisions 20a, 20b, 20d, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.077, subdivision 3; 290.079; 290.08; 290.085; 290.088; 290.089; 290.09; 290.095, subdivisions 8 and 10; 290.12, subdivision 4; 290.13; 290.139; 290.15; 290.16; 290.165; 290.17, subdivision 1a; 290.175; 290.18; 290.19; 290.21, subdivisions 5 and 6; 290.26, subdivision 2; 290.361; and 290.9726, subdivisions 3, 5, and 6, are repealed.

Sec. 128. REPEAL OF RULES.

The following parts of Minnesota Rules are repealed: 8001.0500; 8001.0600; 8001.0700; 8002.0100; 8006.0100; 8006.0200; 8007.0100; 8007.0400 to 8007.4000; 8008.0100 to 8008.0500; 8009.0100 to 8009.2700; 8009.4000 to 8009.6500; 8009.7000; 8010.0100 to 8010.0400; 8011.0100 to 8011.1000; 8014.1000 to 8014.2000; 8017.0100; 8017.2000; 8017.3000; 8023.0100 to 8023.0400; 8031.0200; 8031.0400; 8043.0100; 8093.0200, subpart 4; and 8099.0100 to 8099.0400.

Sec. 129. EFFECTIVE DATE.

Section 16 is effective the day following final enactment. Section 18 is

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effective for taxable years beginning after December 31, 1986, except as otherwise provided in clauses (i) to (v) of that section. Section 58 is effective for losses incurred in taxable years beginning after December 31, 1986. Sections 64 to 72 are effective when the corresponding provisions of the Internal Revenue Code of 1986 are effective. Section 87, paragraph (b) and the provisions in paragraph (c) relating to divestment of a corporation from a unitary group and section 97 are effective for taxable years beginning after December 31, 1985. The remainder of section 87 is effective for taxable years beginning after December 31, 1986. Sections 98 and 99 are effective for taxable years ending after the date of final enactment. Section 104 is effective for final determinations made after the day after enactment of this act. Sections 105 to 110 are effective the day after final enactment. The repeal of Minnesota Statutes 1986, section 290.16, subdivision 4, in section 127, is effective for sales or exchanges occurring after December 31, 1986. The remainder of this article is effective for taxable years beginning after December 31, 1986.

ARTICLE 2

INSURANCE TAXES

Section 1. Minnesota Statutes 1986, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. **DOMESTIC AND FOREIGN COMPANIES OTHER THAN TOWN AND FARMERS' MUTUAL AND DOMESTIC MUTUALS OTHER THAN LIFE.** On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, except including town and farmers' mutual insurance companies and domestic mutual insurance companies other than life, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year based on a sum equal to two percent of the gross premiums less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6. Failure of a company to make payments of at least one-third of either (a) the total tax paid during the previous calendar year or (b) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this ~~subdivision~~ section.

Sec. 2. Minnesota Statutes 1986, section 60A.199, subdivision 1, is amended to read:

Subdivision 1. **EXAMINATION OF BOOKS AND RECORDS.** If the commissioner considers it necessary, the commissioner may examine the books and records of a surplus lines licensee to determine whether the licensee is conducting business in accordance with sections 60A.195 to 60A.209. For the purposes of facilitating examinations, the licensee shall allow the commissioner free access

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at reasonable times to all of the licensee's books and records relating to the transactions to which sections 60A.195 to 60A.209 apply. If an examination is conducted, the cost of the examination shall be paid by the ~~insurer~~ surplus line agent or agency.

Sec. 3. Minnesota Statutes 1986, section 60A.199, subdivision 2, is amended to read:

Subd. 2. EXAMINATION OF RETURNS; ASSESSMENT; REFUNDS.

The commissioner of revenue shall, as soon as practicable after a return required by section 60A.198 is filed, examine it and make any investigation or examination of the ~~company's~~ licensee's records and accounts that the commissioner deems necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of the examination and investigation is the tax to be paid by the ~~company~~ licensee. If the tax found due is greater than the amount reported due on the ~~company's~~ licensee's return, the commissioner shall assess a tax in the amount of the excess and the whole amount of the excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment is mailed to the ~~company~~ licensee by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the ~~company~~ licensee on its return which are not paid shall be paid to the state treasurer within 60 days after notice of the amount thereof and demand for payment is mailed to the ~~company~~ licensee by the commissioner. If the amount of the tax found due by the commissioner is less than that reported due on the ~~company's~~ licensee's return, the excess shall be refunded to the ~~company~~ licensee in the manner provided by this section, except that no demand therefor is necessary, if the whole of the tax has been paid or credited against any unpaid installment thereof. No refund shall be made except as provided in this section after the expiration of 3-1/2 years after the filing of the return.

If the commissioner examines returns of a ~~company~~ licensee for more than one year, the commissioner may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by this section shall be in the form the commissioner determines, including a statement, and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the ~~company~~ licensee at the address given in ~~its~~ on the return. If the address is not given, then they will be sent to the last known address.

At the request of the commissioner of revenue, the commissioner of commerce may examine and investigate the returns under section 60A.198 that the commissioner of revenue designates. The commissioner of commerce shall report to the commissioner of revenue the results of the examination in the manner required by the commissioner of revenue.

Sec. 4. Minnesota Statutes 1986, section 60A.199, subdivision 3, is amended to read:

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Subd. 3. **FAILURE TO FILE; FALSE OR FRAUDULENT RETURN.** If any ~~company~~ licensee required by section 60A.198 to file any return fails to do so within the time prescribed or makes, willfully or otherwise, an incorrect, false, or fraudulent return, ~~it~~ the licensee must, on the written demand of the commissioner of revenue, file the return, or corrected return, within 60 days after the mailing of the written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof. If the ~~company~~ licensee fails within that time to file the return, or corrected return, the commissioner shall make ~~for~~ it a return, or corrected return, from personal knowledge and from the information obtainable through testimony, or otherwise, and assess a tax on the basis thereof. The tax assessed, less any payments theretofore made on account of the tax for the taxable year covered by the return, must be paid within 60 days after the commissioner has mailed to the ~~company~~ licensee a written notice of the amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of the failure of the ~~company~~ licensee to make a return, or a corrected return, is prima facie correct and valid, and the ~~company~~ licensee has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 5. Minnesota Statutes 1986, section 60A.199, subdivision 5, is amended to read:

Subd. 5. **INTENT TO EVADE TAX; PENALTY.** If any ~~company~~ licensee with intent to evade the tax imposed by this chapter, fails to file any return required by this chapter or with such intent files a false or fraudulent return there shall also be imposed on it a penalty as provided in section 290.53, subdivision 3.

Sec. 6. Minnesota Statutes 1986, section 60A.199, subdivision 7, is amended to read:

Subd. 7. **COLLECTION OF TAX.** The tax required to be paid by section 60A.198 may be collected in any ordinary action at law by the commissioner of revenue against the ~~company~~ licensee. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the court administrator of the district court wherein the action was commenced shall enter judgment for the state for the amount demanded in the complaint together with costs and disbursements.

Sec. 7. Minnesota Statutes 1986, section 60A.199, subdivision 8, is amended to read:

Subd. 8. **REFUND PROCEDURE; TIME LIMIT; APPROPRIATION.** A ~~company~~ licensee which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of revenue a claim for a refund of the excess. Except as provided in subdivision 3, no claim or refund shall be allowed or made after 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within

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the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company licensee. For this purpose, a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim the commissioner shall examine ~~the same~~ it, shall make ~~and file~~ written findings thereon denying or allowing the claim in whole or in part, and shall mail a notice thereof to the company licensee at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue a certificate for a refund of the excess paid by the company licensee, with interest at the rate specified in section 270.76 computed from the date of the payment of the tax until the date the refund is paid or credit is made to the company licensee. The commissioner of finance shall cause the refund to be paid as other state moneys are expended. So much of the proceeds of the taxes as is necessary are appropriated for that purpose.

Sec. 8. Minnesota Statutes 1986, section 60A.199, subdivision 9, is amended to read:

Subd. 9. **DENIAL OF CLAIM; COURT PROCEEDINGS.** If the claim is denied in whole or in part, the commissioner shall mail an order of denial to the company licensee in the manner prescribed in this section. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company licensee may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in which lies the county of its principal place of business, or in the district court for Ramsey county. The action in the district court shall be commenced within 18 months following the mailing of the order of denial to the company licensee. If a claim for refund is filed by a company licensee and no order of denial is issued within six months of the filing, the company licensee may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

Sec. 9. Minnesota Statutes 1986, section 60A.199, subdivision 10, is amended to read:

Subd. 10. **CONSENT TO EXTEND TIME.** If the commissioner and the company licensee have, within the periods prescribed ~~in subdivision 4~~ by this section, consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, is the period within which the commissioner and the company licensee have consented to an extension for the assessment of the tax and six months thereafter, the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

Sec. 10. Minnesota Statutes 1986, section 60A.199, subdivision 11, is amended to read:

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Subd. 11. **OVERPAYMENT; REFUNDS.** If the amount determined to be an overpayment exceeds the taxes imposed by section 60A.198, the amount of excess shall be considered an overpayment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which the amount was paid.

Notwithstanding any other provision of law to the contrary, in the case of any overpayment the commissioner, within the applicable period of limitations, shall refund any balance of more than \$1 to the company \$10 if the company licensee so requests.

Sec. 11. Minnesota Statutes 1986, section 60A.209, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION; REGULATION.** A resident of this state may obtain insurance from an ineligible surplus lines insurer in this state through a surplus lines licensee. The licensee shall first attempt to place the insurance with a licensed insurer, or if that is not possible, with an eligible surplus lines insurer. If coverage is not obtainable from a licensed insurer or an eligible surplus lines insurer, the licensee shall certify to the commissioner, on a form prescribed by the commissioner, that these attempts were made. Upon obtaining coverage from an ineligible surplus lines insurer, the licensee shall:

(a) Have printed, typed, or stamped in red ink upon the face of the policy in not less than 10 point type the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THIS INSURANCE IS PLACED WITH AN INSURER THAT IS NOT LICENSED BY THE STATE NOR RECOGNIZED BY THE COMMISSIONER OF COMMERCE AS AN ELIGIBLE SURPLUS LINES INSURER. IN CASE OF ANY DISPUTE RELATIVE TO THE TERMS OR CONDITIONS OF THE POLICY OR THE PRACTICES OF THE INSURER, THE COMMISSIONER OF COMMERCE WILL NOT BE ABLE TO ASSIST IN THE DISPUTE. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." The notice may not be covered or concealed in any manner; and

(b) Collect from the insured appropriate premium taxes and report the transaction to the commissioner of revenue on a form prescribed by the commissioner. If the insured fails to pay the taxes when due, the insured shall be subject to a civil fine of not more than \$3,000, plus accrued interest from the inception of the insurance.

Sec. 12. Minnesota Statutes 1986, section 60A.209, subdivision 3, is amended to read:

Subd. 3. **DUTY TO REPORT.** Each insured in this state who procures, causes to be procured, or continues or renews insurance with an ineligible surplus lines insurer or any self-insurer in this state who procures or continues excess of loss, catastrophe, or other insurance upon a subject of insurance resi-

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dent, located, or to be performed within this state, other than insurance procured pursuant to section 60A.201 or subdivision 1 of this section shall file a written report regarding the insurance with the commissioner of revenue on forms prescribed by the commissioner of revenue and furnished to the insured upon request. The report shall be filed within 30 days after the date the insurance was procured, continued, or renewed and shall be accompanied by the tax on the premiums of two percent. The report shall show all of the following:

- (a) The name and address of the insured;
- (b) The name and address of the insurer;
- (c) The subject of the insurance;
- (d) A general description of the coverage;
- (e) The amount of premium currently charged for the insurance; and
- (f) Any additional pertinent information reasonably requested by the commissioner of revenue.

Sec. 13. Minnesota Statutes 1986, section 60C.06, is amended by adding a subdivision to read:

Subd. 5. SURCHARGE. (a) The plan of operation adopted pursuant to section 60C.07 must require each member insurer to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this chapter applies.

(b) The amount of any surcharge must be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category and these are mandatory for all member insurers of the association who write business in those categories. The amount of the surcharge determined under this section is included in the insurance company's premiums for purposes of the gross premiums tax imposed under section 60A.15.

(c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insured when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to recoup the amount of the surcharge otherwise collectible.

Sec. 14. Minnesota Statutes 1986, section 61B.02, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** Sections 61B.01 to 61B.16 apply to direct life insurance policies, health insurance policies including subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C,

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annuity contracts, and contracts supplemental to life and health insurance policies or annuity contracts, issued by persons authorized at any time to transact insurance or business as a nonprofit health service plan corporation operating under chapter 62C in this state. Sections 61B.01 to 61B.16 do not apply to:

(a) any policy or contract or part thereof under which the risk is borne by the policyholder;

(b) any policy or contract or part thereof assumed by an impaired insurer under a contract of reinsurance other than reinsurance for which assumption certificates have been issued;

(c) any policy or contract issued by an assessment benefit association operating under chapter 63, or a fraternal benefit society operating under chapter 64B;

~~(d) any subscriber contract issued by a nonprofit health service plan corporation operating under chapter 62C; or~~

(e) ~~(d)~~ any health insurance policies issued by a person other than a person authorized to write life insurance in this state or other than a person whose corporate charter would permit the writing of life insurance but who is authorized to write only health insurance in this state.

Sec. 15. Minnesota Statutes 1986, section 61B.03, subdivision 8, is amended to read:

Subd. 8. "Health insurance" means accident and health insurance regulated under chapter 62A and credit accident and health insurance regulated under chapter 62B and subscriber contracts issued by a nonprofit health service plan corporation operating under chapter 62C.

Sec. 16. Minnesota Statutes 1986, section 61B.03, subdivision 10, is amended to read:

Subd. 10. "Member insurer" means any person authorized to transact in this state any kind of insurance or business to which sections 61B.01 to 61B.16 apply under section 61B.02.

Sec. 17. Minnesota Statutes 1986, section 62E.02, subdivision 23, is amended to read:

Subd. 23. "Contributing member" means those companies operating pursuant to chapter 62A; ~~paying premium taxes pursuant to section 60A.15;~~ and offering, selling, issuing, or renewing policies or contracts of accident and health insurance or health maintenance organizations and nonprofit health service plan corporations incorporated under chapter 62C or fraternal benefit society operating under chapter 64.

Sec. 18. Minnesota Statutes 1986, section 67A.11, subdivision 3, is amended to read:

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Subd. 3. **ANNUAL STATEMENT.** (a) On or before March first, following the end of each fiscal year, the president and the secretary shall file with the commissioner a verified statement of the entire business and condition of the company, which statement shall contain such data and information in reference to the business of the preceding fiscal year as shall be required by the commissioner.

(b) On or before March 1 of each year, the president and secretary shall also file with the commissioner of revenue a copy of the verified statement required by paragraph (a). Failure to file the statement on or before March 1 will subject the company to a penalty of \$10 a day up to a maximum of \$100.

Sec. 19. Minnesota Statutes 1986, section 69.011, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms shall for the purposes of this chapter and chapters 423, 423A, 424 and 424A have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means any home rule charter or statutory city, organized town or park district subject to chapter 398, and the University of Minnesota.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire department having a subsidiary volunteer firefighters' relief association.

(e) "Assessed property valuation" means latest available assessed value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the state board of equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto liability-bodily injury, auto liability-property damage, and auto physical damage insurance coverages as reported in the Minnesota business schedule of the fire and casualty insurance companies annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

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(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification pursuant to subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the peace officers standards and training board and is authorized to arrest with a warrant; and

(5) who is a member of a local police relief association to which section 69.77 applies or the public employees police and fire fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.

(i) "Retirement benefits other than a service pension" means any disbursement authorized pursuant to section 424A.05, subdivision 3, clauses (2), (3) and (4).

(j) "Municipal clerk, municipal clerk-treasurer or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official designated by the board of regents.

Sec. 20. Minnesota Statutes 1986, section 69.011, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATION FOR FIRE OR POLICE STATE AID.** (a) In order to qualify to receive fire state aid, on or before July 1, annually, in conjunction with the financial report required pursuant to section 69.051, the clerk of each municipality having a duly organized fire department as provided in subdivision 4, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighters' relief association which-ever is applicable, and the ~~secretary and the treasurer of the firefighters' relief association~~ fire chief, shall jointly certify the existence of the municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire

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department or the independent nonprofit firefighting corporation as of the preceding December 31. Certification shall be made to the commissioner on a form prescribed by the commissioner and shall include any other facts the commissioner may require. The certification shall be made to the commissioner in duplicate. Each copy of the certificate shall be duly executed and deemed an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and retain one copy.

(b) On or before July 1 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form prescribed by the commissioner together with the other facts the commissioner or auditor may require.

On or before July 1 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (h), shall certify the number of such peace officers to the commissioner on forms prescribed by the commissioner. Credit for officers employed less than a full year shall be apportioned. Each full month of employment of a qualifying officer during the calendar year shall entitle the employing municipality or county to credit for 1/12 of the payment for employment of a peace officer for the entire year. For purposes of sections 69.011 to 69.051, employment of a peace officer shall commence when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer shall be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Sec. 21. Minnesota Statutes 1986, section 69.021, subdivision 1, is amended to read:

Subdivision 1. **MINNESOTA FIRETOWN PREMIUM REPORT AND MINNESOTA AID TO POLICE PREMIUM REPORT.** The commissioner of ~~revenue~~ shall, at the time of mailing ~~annual statement and~~ tax forms, send blank copies of the Minnesota Firetown Premium Report and when applicable the Minnesota Aid to Police Premium Report to each insurer, including township and farmers mutual insurance companies licensed to write insurance as described in section 69.011, subdivision 1, clauses (c) and (f) in this state. These reports shall contain space for the insurers name, address, gross premiums less return premiums, dividends, net premiums, certification and other facts the commissioner may require.

Sec. 22. Minnesota Statutes 1986, section 69.021, subdivision 2, is amended to read:

Subd. 2. **REPORT OF PREMIUMS.** Each insurer, including township and farmers mutual insurers where applicable, shall return to the commissioner of ~~commerce~~ with its annual financial statement the reports described in subdivision 1 certified by its secretary and president or chief financial officer. The

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Minnesota Firetown Premium Report shall contain a true and accurate statement of the total premium for all gross direct fire, lightning, and sprinkler leakage insurance of all domestic mutual insurers and the total premiums for all gross direct fire, lightning, sprinkler leakage and extended coverage insurance of all other insurers, less return premiums and dividends received by them on that business written or done during the preceding calendar year upon property located within the state or brought into the state for temporary use. The fire and extended coverage portion of multiperil and multiple peril package premiums and all other combination premiums shall be determined by applying percentages determined by the commissioner of ~~commerce~~ or by rating bureaus recognized by the commissioner of ~~commerce~~. The Minnesota Aid to Police Premium Report shall contain a true and accurate statement of the total premiums, less return premiums and dividends ~~received~~, on all direct business received by such insurer in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for perils described in section 69.011, subdivision 1, clause (f), except that domestic mutual insurance companies must not file a report.

Each insurer shall, in addition to filing with the commissioner of ~~commerce~~ the reports required by this subdivision, file the reports required by this subdivision with the commissioner of revenue.

Sec. 23. Minnesota Statutes 1986, section 69.021, subdivision 3, is amended to read:

Subd. 3. **PENALTY FOR FRAUDULENT, INCORRECT, INCOMPLETE RETURNS AND LATE FILING OF REPORT WITH THE COMMISSIONER OF COMMERCE.** When it appears to the commissioner of ~~commerce~~ that any insurer has made an incomplete or inaccurate report the commissioner of ~~commerce~~ shall return the report and demand that a complete and accurate report be filed. If the insurer fails to file a report by on or before March 1, annually, or within 30 days after demand by the commissioner of commerce; the insurer shall be liable and shall pay \$25 for each seven days delinquent or fraction thereof not to exceed \$200. If the insurer fails to file a corrected report within 30 days after demand, the insurer is liable for the penalties provided in this subdivision for knowingly filing an inaccurate or false report.

Any insurer who knowingly makes and files an inaccurate or false report shall be liable to a fine of not less than \$25 nor more than \$1,000 and the commissioner of commerce may revoke the insurer's certificate of authority.

Any person whose duty it is to make the report who fails or refuses to make it within 30 days after notification by the commissioner of ~~commerce~~ shall be fined not more than \$1,000. Failure of the insurer to receive a reporting form shall not excuse the insurer from filing the report.

Sec. 24. Minnesota Statutes 1986, section 69.54, is amended to read:

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69.54 SURCHARGE ON PREMIUMS TO RESTORE DEFICIENCY IN SPECIAL FUND.

The commissioner shall order and direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any licensed foreign or domestic fire insurance company on property in this city of the first class, or by its agents for it, in cash or otherwise. This surcharge shall be due and payable from these companies to the state treasurer; ~~in equal installments~~, on March 15, May 15, and November 15 of each calendar year, and if not paid within 30 days after these dates, a penalty of ten percent shall accrue thereon and thereafter this sum and penalty shall draw interest at the rate of one percent per month until paid.

Sec. 25. Minnesota Statutes 1986, section 69.55, is amended to read:

69.55 WARRANT ON STATE TREASURER.

The commissioner of finance ~~semiannually after July 31, 1934, by July 31 and December 31 of each year~~ shall issue and deliver to the treasurer of the relief association in ~~such each~~ city a warrant upon the state treasurer for an amount equal to the total amount of the surcharge on the premiums within the city theretofore so collected and transmitted to the state treasurer by these insurance companies. There is ~~hereby appropriated out of any money in from~~ the general fund ~~in the state treasury not otherwise appropriated such sums as may, from time to time, be the amount~~ necessary to pay these warrants.

Sec. 26. Minnesota Statutes 1986, section 79.34, subdivision 1, is amended to read:

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40 or any amendments thereto, sections 79.34 to 79.40 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-

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insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13, 14, and 15. ~~The reinsurance association is exempt from taxation under the laws of this state and~~ All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 27. Minnesota Statutes 1986, section 79.34, is amended by adding a subdivision to read:

Subd. 1a. The direct funded premium received by the reinsurance association is subject to the gross premium tax imposed by section 60A.15. Only direct funded premium payments made to the reinsurance association by self-insurers approved pursuant to section 176.181 and each political subdivision that self-insures shall be subject to the gross premiums tax.

Sec. 28. Minnesota Statutes 1986, section 176.129, subdivision 4a, is amended to read:

Subd. 4a. **CONTRIBUTION RATE ADJUSTMENT.** In determining the rate of adjustment as provided by subdivision 3, the commissioner shall determine the revenues received less claims received for the preceding 12 months ending June 30, 1984, and each June 30 thereafter.

If the result is:	the range of adjustment is:
over \$15,000,000	-10% to 0%
less than \$15,000,000 but more than \$10,000,000	-7% to +3%
less than \$10,000,000 but more than \$5,000,000	-5% to +5%
less than \$5,000,000 but more than \$0	-3% to +7%

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\$0 but less than a	
\$5,000,000 deficit	0% to +10%
more than a \$5,000,000	
deficit	+5% to +12%

The adjustment under this subdivision shall be used for assessments for calendar year 1984 and each year thereafter.

An amount assessed pursuant to this section is payable to the commissioner within 45 days of mailing notice of the amount due unless the commissioner orders otherwise.

The commissioner may allow an offset of the reimbursements due an employer pursuant to sections 176.131 and 176.132 against the assessment due under this section and may promulgate rules to establish the terms and conditions under which an employer will be allowed the offset.

Sec. 29. Minnesota Statutes 1986, section 176A.08, is amended to read:

176A.08 EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 14, 15, 15A, and 43A. However, the fund shall be subject to sections 179A.01 to 179A.25. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of commerce has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state pursuant to section 60A.15; ~~subdivision 2~~. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.

Sec. 30. Minnesota Statutes 1986, section 299F.21, subdivision 1, is amended to read:

Subdivision 1. ESTIMATED INSTALLMENT PAYMENTS. On or before April 15, June 15, and December 15 of each year, every licensed insurance company, including reciprocals, or interinsurance exchanges ~~or Lloyds~~, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall pay to the commissioner of revenue installments equal to one-third of, a tax upon its fire premiums or assessments or both, ~~as follows:~~

A based on a sum equal to one-half of one percent of the estimated gross fire premiums and assessments, less return premiums and dividends, on all direct business received by it in this state, or by its agents for it, in cash or

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otherwise, during the ~~calendar~~ year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company or reciprocal exchange the dividends or savings paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be credited to the general fund.

If the tax prescribed by this section is not paid by those dates, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed. A company that fails to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year is subject to the penalty and interest provided in this chapter.

Sec. 31. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1a. ADDITION TO THE TAX. In case of an underpayment of installments by an insurer, there must be added to the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of underpayment.

Sec. 32. Minnesota Statutes 1986, section 299F.21 is amended by adding a subdivision to read:

Subd. 1b. AMOUNT OF UNDERPAYMENT. For purposes of subdivision 1a, the amount of the underpayment is the excess of: (1) the amount of the installment; over (2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 33. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1c. PERIOD OF UNDERPAYMENT. The period of the underpayment runs from the date the installment was required to be paid to the earliest of the following dates:

(1) on March 1 following the close of the taxable year;

(2) with respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under clause (1), for the installment date.

Sec. 34. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1d. DEFINITION OF TAX. The term "tax" means the tax imposed by chapter 299F.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 35. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1e. FAILURE TO FILE AN ESTIMATE. In the case of an insurer that fails to file an estimated tax statement for a taxable year when one is required, the period of the underpayment runs from the installment dates as set forth in subdivision 1 to whichever of the periods set forth in subdivision 1c is the earlier.

Sec. 36. Minnesota Statutes 1986, section 299F.21, subdivision 2, is amended to read:

Subd. 2. **ANNUAL RETURNS.** (a) Every insurer required to pay a ~~premium~~ tax under this section shall make and file a statement of estimated ~~premium~~ taxes for the period covered by the installment tax payment. The statement shall be in the form prescribed by the commissioner of revenue.

(b) On or before March 1, annually every insurer subject to taxation under this section shall make an annual return for the preceding calendar year setting forth information the commissioner of revenue may reasonably require on forms prescribed by the commissioner.

(c) On March 1, the insurer shall pay any additional amount due for the preceding calendar year; if there has been an overpayment, the overpayment may be credited without interest on the estimated tax due April 15.

(d) If unpaid by this date, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed.

Sec. 37. COMPUTATION OF 1987 GROSS PREMIUMS TAX.

For calendar year 1987 the gross premiums tax under Minnesota Statutes, section 60A.15, as applied to the premiums of town and farmers mutual insurance companies, domestic mutual insurance companies, and the workers' compensation reinsurance association or other companies or entities that were exempt prior to enactment of this act shall equal one-half of the amount of tax that would be due if the tax were imposed for the full calendar year. Estimated tax equal to, at least, 80 percent of the tax computed under this section must be paid by December 15, 1987, or the penalties and interest for failure to pay or for underpayments of estimated tax under Minnesota Statutes, section 60A.15, apply.

Sec. 38. REPEALER.

(a) Minnesota Statutes 1986, sections 60A.15, subdivision 2; 61A.49; 62E.13, subdivision 9; and 69.021, subdivision 3a, are repealed.

(b) Section 62E.11, subdivision 8, is repealed.

Sec. 39. EFFECTIVE DATE.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Section 17 is effective January 1, 1987 for the calendar year 1987 assessments of the Comprehensive Health Association. Section 38, clause (b) is effective for taxable years beginning after December 31, 1986. The remainder of the article is effective July 1, 1987.

ARTICLE 3

PROPERTY TAX REFUND

Section 1. Minnesota Statutes 1986, section 290A.03, subdivision 3, is amended to read:

Subd. 3. **INCOME.** (1) "Income" means the sum of the following:

(a) the greater of federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1985 or zero; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) ~~additions to federal adjusted gross income as provided in section 290.01, subdivision 20a, clauses (1), (2), (3), and (4);~~

(ii) all nontaxable income;

(iii) recognized net long-term capital gains (ii) the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (1) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;

(iv) ~~dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954 (iii) an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;~~

(v) (iv) cash public assistance and relief;

(vi) (v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans' benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vii) (vi) nontaxable interest received from the state or federal or a state government or any instrumentality or political subdivision thereof;

(viii) (vii) workers' compensation;

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~~(ix)~~ (viii) unemployment benefits;

~~(x)~~ nontaxable strike benefits;

~~(xi)~~ (ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

~~(xii)~~ (x) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code ~~of 1954~~; and

~~(xiii)~~ (xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code ~~of 1954~~; or deferred compensation plan under section 457 of the Internal Revenue Code ~~of 1954~~.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be reduced by the amount of a net operating loss carry-back.

(2) "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a), 102, 117, and 121;

(b) amounts of any pension or annuity which was exclusively funded by the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) surplus food or other relief in kind supplied by a governmental agency;

(d) relief granted under this chapter; or

(e) child support payments received under a temporary or final decree of dissolution or legal separation; ~~or~~

~~(f) the first \$2,000 of household income if the claimant was disabled on or before June 1 or attained the age of 65 prior to June 1 of the year following the year for which the taxes were levied or in which the rent was paid.~~

Sec. 2. Minnesota Statutes 1986, section 290A.03, subdivision 8, is amended to read:

Subd. 8. CLAIMANT. (a) "Claimant" means a person, other than a dependent, who filed a claim authorized by this chapter and who was ~~deceased in a~~ resident of this state as provided in chapter 290 during the calendar year for which the claim for relief was filed.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) In the case of a claim relating to rent constituting property taxes, the claimant shall have resided in a rented or leased unit on which ad valorem taxes or payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes, are payable at some time during the calendar year covered by the claim.

(c) "Claimant" shall not include a resident of a nursing home, intermediate care facility, or long-term residential facility whose rent constituting property taxes is paid pursuant to the supplemental security income program under title XVI of the Social Security Act, the Minnesota supplemental aid program under sections 256D.35 to 256D.41, the medical assistance program pursuant to title XIX of the Social Security Act, or the general assistance medical care program pursuant to section 256D.03, subdivision 3. If only a portion of the rent constituting property taxes is paid by these programs, the resident shall be a claimant for purposes of this chapter, but the refund calculated pursuant to section 290A.04 shall be multiplied by a fraction, the numerator of which is income as defined in subdivision 3 reduced by the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program and the denominator of which is income as defined in subdivision 3 plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter. ~~For purposes of this paragraph and paragraph (d), household income or income as defined in subdivision 3 must not be reduced by the \$2,000 reduction provided in subdivision 3, paragraph (2), clause (f), for claimants who are disabled or age 65 or more.~~

(d) Notwithstanding paragraph (c), if the claimant was a resident of the nursing home, intermediate care facility or long-term residential facility for only a portion of the calendar year covered by the claim, the claimant may compute rent constituting property taxes by disregarding the rent constituting property taxes from the nursing home, intermediate care facility, or long-term residential facility and use only that amount of rent constituting property taxes or property taxes payable relating to that portion of the year when the claimant was not in the facility. The claimant's household income is the income for the entire calendar year covered by the claim.

(e) In the case of a claim for rent constituting property taxes of a part-year Minnesota resident, the income and rental reflected in this computation shall be for the period of Minnesota residency only. Any rental expenses paid which may be reflected in arriving at federal adjusted gross income cannot be utilized for this computation. When two individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. If a homestead property owner was a part-year Minnesota resident, the income reflected in the computation made pursuant to section 290A.04 shall be for the entire calendar year, including income not assignable to Minnesota.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(f) If a homestead is occupied by two or more renters, who are not husband and wife, the rent shall be deemed to be paid equally by each, and separate claims shall be filed by each. The income of each shall be each renter's household income for purposes of computing the amount of credit to be allowed.

Sec. 3. Minnesota Statutes 1986, section 290A.03, is amended by adding a subdivision to read:

Subd. 15. INTERNAL REVENUE CODE. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 4. Minnesota Statutes 1986, section 290A.04, subdivision 2, is amended to read:

Subd. 2. A claimant who is disabled or has attained the age of 65 by June 1 of the year in which a refund is payable or who, on the federal tax return filed for the prior year, claimed a personal exemption for a dependent pursuant to section 151 of the Internal Revenue Code, and whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund will be equal to the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
Net loss and up to \$2,999	1.0 percent	5 percent	\$1,125
3,000 to 3,499	1.0 percent	6 percent	\$1,125
3,500 to 3,999	1.0 percent	7 percent	\$1,125
4,000 to 4,499	1.0 percent	8 percent	\$1,125
4,500 to 4,999	1.0 percent	9 percent	\$1,125
5,000 to 5,999	1.0 percent	10 percent	\$1,125
6,000 to 6,999	1.0 percent	11 percent	\$1,125
7,000 to 7,999	1.0 percent	12 percent	\$1,125
8,000 to 8,999	1.1 percent	13 percent	\$1,125
9,000 to 9,999	1.2 percent	14 percent	\$1,125
10,000 to 10,999	1.3 percent	15 percent	\$1,125
11,000 to 11,999	1.4 percent	16 percent	\$1,125
12,000 to 12,999	1.5 percent	17 percent	\$1,125
13,000 to 13,999	1.5 percent	18 percent	\$1,125
14,000 to 14,999	1.5 percent	19 percent	\$1,125
15,000 to 15,999	1.5 percent	20 percent	\$1,125
16,000 to 16,999	1.5 percent	21 percent	\$1,125
17,000 to 17,999	1.5 percent	22 percent	\$1,125
18,000 to 18,999	1.5 percent	23 percent	\$1,125

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

19,000 to 19,999	1.5 percent	24 percent	\$1,125
20,000 to 20,999	1.6 percent	25 percent	\$1,125
21,000 to 21,999	1.6 percent	27 percent	\$1,125
22,000 to 22,999	1.6 percent	29 percent	\$1,125
23,000 to 23,999	1.8 percent	31 percent	\$1,125
24,000 to 24,999	1.8 percent	33 percent	\$1,105
25,000 to 25,999	1.8 percent	35 percent	\$1,080
26,000 to 26,999	2.0 percent	38 percent	\$1,050
27,000 to 27,999	2.0 percent	41 percent	\$1,020
28,000 to 28,999	2.0 percent	44 percent	\$ 990
29,000 to 29,999	2.0 percent	47 percent	\$ 960
30,000 to 30,999	2.0 percent	50 percent	\$ 930
31,000 to 31,999	2.2 percent	50 percent	\$ 900
32,000 to 32,999	2.2 percent	50 percent	\$ 800
33,000 to 33,999	2.2 percent	50 percent	\$ 700
34,000 to 34,999	2.2 percent	50 percent	\$ 600
35,000 to 35,999	2.2 percent	50 percent	\$ 500
36,000 to 36,999	2.4 percent	50 percent	\$ 400
37,000 to 37,999	2.4 percent	50 percent	\$ 300
38,000 to 38,999	2.4 percent	50 percent	\$ 200
39,000 to 39,999	2.4 percent	50 percent	\$ 100
40,000 and over	2.4 percent	50 percent	-0-
<u>\$0 to 999</u>	<u>1.0 percent</u>	<u>10 percent</u>	<u>\$1,100</u>
<u>1,000 to 1,999</u>	<u>1.0 percent</u>	<u>10 percent</u>	<u>\$1,100</u>
<u>2,000 to 2,999</u>	<u>1.0 percent</u>	<u>10 percent</u>	<u>\$1,100</u>
<u>3,000 to 3,499</u>	<u>1.0 percent</u>	<u>11 percent</u>	<u>\$1,100</u>
<u>3,500 to 3,999</u>	<u>1.0 percent</u>	<u>11 percent</u>	<u>\$1,100</u>
<u>4,000 to 4,499</u>	<u>1.0 percent</u>	<u>11 percent</u>	<u>\$1,100</u>
<u>4,500 to 4,999</u>	<u>1.0 percent</u>	<u>12 percent</u>	<u>\$1,100</u>
<u>5,000 to 5,999</u>	<u>1.0 percent</u>	<u>12 percent</u>	<u>\$1,100</u>
<u>6,000 to 6,999</u>	<u>1.1 percent</u>	<u>12 percent</u>	<u>\$1,100</u>
<u>7,000 to 7,999</u>	<u>1.1 percent</u>	<u>13 percent</u>	<u>\$1,100</u>
<u>8,000 to 8,999</u>	<u>1.2 percent</u>	<u>13 percent</u>	<u>\$1,100</u>
<u>9,000 to 9,999</u>	<u>1.2 percent</u>	<u>13 percent</u>	<u>\$1,100</u>
<u>10,000 to 10,999</u>	<u>1.3 percent</u>	<u>14 percent</u>	<u>\$1,075</u>
<u>11,000 to 11,999</u>	<u>1.4 percent</u>	<u>14 percent</u>	<u>\$1,075</u>
<u>12,000 to 12,999</u>	<u>1.5 percent</u>	<u>14 percent</u>	<u>\$1,075</u>
<u>13,000 to 13,999</u>	<u>1.5 percent</u>	<u>15 percent</u>	<u>\$1,075</u>
<u>14,000 to 14,999</u>	<u>1.5 percent</u>	<u>16 percent</u>	<u>\$1,075</u>
<u>15,000 to 15,999</u>	<u>1.6 percent</u>	<u>17 percent</u>	<u>\$1,075</u>
<u>16,000 to 16,999</u>	<u>1.7 percent</u>	<u>18 percent</u>	<u>\$1,075</u>
<u>17,000 to 17,999</u>	<u>1.8 percent</u>	<u>19 percent</u>	<u>\$1,050</u>
<u>18,000 to 18,999</u>	<u>1.9 percent</u>	<u>20 percent</u>	<u>\$1,050</u>
<u>19,000 to 19,999</u>	<u>2.0 percent</u>	<u>22 percent</u>	<u>\$1,050</u>
<u>20,000 to 20,999</u>	<u>2.1 percent</u>	<u>24 percent</u>	<u>\$1,050</u>
<u>21,000 to 21,999</u>	<u>2.2 percent</u>	<u>26 percent</u>	<u>\$1,050</u>
<u>22,000 to 22,999</u>	<u>2.2 percent</u>	<u>28 percent</u>	<u>\$1,050</u>

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

<u>23,000 to 23,999</u>	<u>2.2 percent</u>	<u>30 percent</u>	<u>\$1,025</u>
<u>24,000 to 24,999</u>	<u>2.3 percent</u>	<u>32 percent</u>	<u>\$1,025</u>
<u>25,000 to 25,999</u>	<u>2.3 percent</u>	<u>34 percent</u>	<u>\$1,025</u>
<u>26,000 to 26,999</u>	<u>2.3 percent</u>	<u>36 percent</u>	<u>\$1,025</u>
<u>27,000 to 27,999</u>	<u>2.4 percent</u>	<u>38 percent</u>	<u>\$1,000</u>
<u>28,000 to 28,999</u>	<u>2.4 percent</u>	<u>40 percent</u>	<u>\$ 900</u>
<u>29,000 to 29,999</u>	<u>2.4 percent</u>	<u>42 percent</u>	<u>\$ 800</u>
<u>30,000 to 30,999</u>	<u>2.4 percent</u>	<u>44 percent</u>	<u>\$ 700</u>
<u>31,000 to 31,999</u>	<u>2.5 percent</u>	<u>46 percent</u>	<u>\$ 600</u>
<u>32,000 to 32,999</u>	<u>2.5 percent</u>	<u>48 percent</u>	<u>\$ 500</u>
<u>33,000 to 33,999</u>	<u>2.5 percent</u>	<u>50 percent</u>	<u>\$ 300</u>
<u>34,000 to 34,999</u>	<u>2.5 percent</u>	<u>50 percent</u>	<u>\$ 100</u>

The payment made to a claimant shall be the amount of the state refund calculated pursuant to this subdivision, less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23. No payment is allowed if the claimant's household income is ~~\$40,000~~ \$35,000 or more.

Sec. 5. Minnesota Statutes 1986, section 290A.04, is amended by adding a subdivision to read:

Subd. 2a. A claimant who is ineligible for a refund pursuant to subdivision 2 and whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund equals the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

<u>Household Income</u>	<u>Percent of Income</u>	<u>Percent Paid by Claimant</u>	<u>Maximum State Refund</u>
<u>\$0 to 999</u>	<u>2.5 percent</u>	<u>10 percent</u>	<u>\$1,100</u>
<u>1,000 to 1,999</u>	<u>2.5 percent</u>	<u>10 percent</u>	<u>\$1,100</u>
<u>2,000 to 2,999</u>	<u>2.5 percent</u>	<u>10 percent</u>	<u>\$1,100</u>
<u>3,000 to 3,499</u>	<u>2.5 percent</u>	<u>11 percent</u>	<u>\$1,100</u>
<u>3,500 to 3,999</u>	<u>2.5 percent</u>	<u>11 percent</u>	<u>\$1,100</u>
<u>4,000 to 4,499</u>	<u>2.5 percent</u>	<u>11 percent</u>	<u>\$1,100</u>
<u>4,500 to 4,999</u>	<u>2.5 percent</u>	<u>12 percent</u>	<u>\$1,100</u>
<u>5,000 to 5,999</u>	<u>2.5 percent</u>	<u>12 percent</u>	<u>\$1,100</u>
<u>6,000 to 6,999</u>	<u>2.6 percent</u>	<u>12 percent</u>	<u>\$1,100</u>
<u>7,000 to 7,999</u>	<u>2.6 percent</u>	<u>13 percent</u>	<u>\$1,100</u>
<u>8,000 to 8,999</u>	<u>2.7 percent</u>	<u>13 percent</u>	<u>\$1,100</u>
<u>9,000 to 9,999</u>	<u>2.7 percent</u>	<u>13 percent</u>	<u>\$1,100</u>
<u>10,000 to 10,999</u>	<u>2.8 percent</u>	<u>14 percent</u>	<u>\$1,075</u>
<u>11,000 to 11,999</u>	<u>2.9 percent</u>	<u>14 percent</u>	<u>\$1,075</u>
<u>12,000 to 12,999</u>	<u>3.0 percent</u>	<u>14 percent</u>	<u>\$1,075</u>
<u>13,000 to 13,999</u>	<u>3.0 percent</u>	<u>15 percent</u>	<u>\$1,075</u>
<u>14,000 to 14,999</u>	<u>3.0 percent</u>	<u>16 percent</u>	<u>\$1,075</u>

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

<u>15,000 to 15,999</u>	<u>3.1 percent</u>	<u>17 percent</u>	<u>\$1,075</u>
<u>16,000 to 16,999</u>	<u>3.2 percent</u>	<u>18 percent</u>	<u>\$1,075</u>
<u>17,000 to 17,999</u>	<u>3.3 percent</u>	<u>19 percent</u>	<u>\$1,050</u>
<u>18,000 to 18,999</u>	<u>3.4 percent</u>	<u>20 percent</u>	<u>\$1,050</u>
<u>19,000 to 19,999</u>	<u>3.5 percent</u>	<u>22 percent</u>	<u>\$1,050</u>
<u>20,000 to 20,999</u>	<u>3.6 percent</u>	<u>24 percent</u>	<u>\$1,050</u>
<u>21,000 to 21,999</u>	<u>3.7 percent</u>	<u>26 percent</u>	<u>\$1,050</u>
<u>22,000 to 22,999</u>	<u>3.7 percent</u>	<u>28 percent</u>	<u>\$1,050</u>
<u>23,000 to 23,999</u>	<u>3.7 percent</u>	<u>30 percent</u>	<u>\$1,025</u>
<u>24,000 to 24,999</u>	<u>3.8 percent</u>	<u>32 percent</u>	<u>\$1,025</u>
<u>25,000 to 25,999</u>	<u>3.8 percent</u>	<u>34 percent</u>	<u>\$1,025</u>
<u>26,000 to 26,999</u>	<u>3.8 percent</u>	<u>36 percent</u>	<u>\$1,025</u>
<u>27,000 to 27,999</u>	<u>3.9 percent</u>	<u>38 percent</u>	<u>\$1,000</u>
<u>28,000 to 28,999</u>	<u>3.9 percent</u>	<u>40 percent</u>	<u>\$ 900</u>
<u>29,000 to 29,999</u>	<u>3.9 percent</u>	<u>42 percent</u>	<u>\$ 800</u>
<u>30,000 to 30,999</u>	<u>3.9 percent</u>	<u>44 percent</u>	<u>\$ 700</u>
<u>31,000 to 31,999</u>	<u>4.0 percent</u>	<u>46 percent</u>	<u>\$ 600</u>
<u>32,000 to 32,999</u>	<u>4.0 percent</u>	<u>48 percent</u>	<u>\$ 500</u>
<u>33,000 to 33,999</u>	<u>4.0 percent</u>	<u>50 percent</u>	<u>\$ 300</u>
<u>34,000 to 34,999</u>	<u>4.0 percent</u>	<u>50 percent</u>	<u>\$ 100</u>

The payment made to a claimant must be the amount of the state refund calculated pursuant to this subdivision, less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23. No payment is allowed if the claimant's household income is \$35,000 or more.

Sec. 6. Minnesota Statutes 1986, section 290A.04, is amended by adding a subdivision to read:

Subd. 2b. The commissioner may reconstruct the tables in subdivisions 2 and 2a to reflect the elimination of the homestead credit beginning for claims based on taxes payable in 1989.

Sec. 7. Minnesota Statutes 1986, section 290A.06, is amended to read:

290A.06 FILING TIME LIMIT, LATE FILING; INCOME TAX RETURN.

Any claim for a refund based on property taxes payable shall be filed with the department of revenue on or before August 15 of the year in which the property taxes are due and payable. A copy of the claimant's federal income tax return for the taxable year preceding the year in which the property taxes are payable must be filed with the claim if the claimant filed a federal income tax return for that year.

Any claim for rent constituting property taxes shall be filed with the department of revenue on or before August 15 of the year following the year in which the rent was paid. A copy of the claimant's federal income tax return for the taxable year in which the rent was paid must be filed with the claim if the claimant filed a federal income tax return for that year.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The commissioner may extend the time for filing these claims for a period not to exceed six months in the case of sickness, absence, or other disability, or when in the commissioner's judgment other good cause exists.

A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent which may be canceled or reduced by the commissioner in the case of sickness, absence, or other disability, or when in the commissioner's judgment other good cause exists. In any event no claim shall be allowed if the initial claim is filed one year after the original due date for filing the claim.

The time limit on redetermination of claims for refund and examination of records shall be governed by sections 290.49, 290.50, and 290.56 and for purposes of computing the time limit as provided in these sections the due date of the property tax refund return shall be the same as the due date contained in section 290.42 for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.

Sec. 8. [290A.091] CLAIMS OF TENANTS IN LEASEHOLD COOPERATIVES.

The cooperative manager of a leasehold cooperative shall furnish a statement to each tenant by March 31 of the year in which the property tax is payable showing each unit's share of the gross property tax and each unit's share of any property tax credits. Each tenant may apply for a property tax refund under this chapter as a homeowner based on each tenant's share of property taxes. The tenant may not include any rent constituting property taxes paid on that unit.

Sec. 9. Minnesota Statutes 1986, section 290A.18, is amended to read:

290A.18 RIGHT TO FILE CLAIM; RIGHT TO RECEIVE CREDIT.

Subdivision 1. CLAIM BY SURVIVING SPOUSE OR DEPENDENT. If a person entitled to relief under this chapter dies prior to receiving relief, the surviving spouse or dependent of the person shall be entitled to file the claim and receive relief. If there is no surviving spouse or dependent, the right to the credit shall lapse.

Subd. 2. CLAIMANT CANNOT BE LOCATED. If the commissioner cannot locate the claimant within two years from the date that the original warrant was issued, the right to the credit shall lapse, and the warrant shall be deposited in the general fund.

Sec. 10. Minnesota Statutes 1986, section 290A.19, is amended to read:

290A.19 OWNER OR MANAGING AGENT TO FURNISH RENT CERTIFICATE; PENALTY.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent constituting property tax to each person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves prior to December 31, the owner or managing agent has the option to either provide the certificate to the renter at the time of moving, or mail the certificate to the forwarding address if an address has been provided by the renter. The certificate shall be made available to the renter not later than January 31 of the year following the year in which the rent was paid.

(b) Any owner or managing agent who willfully fails to furnish a certificate as provided herein shall be to the renter and the commissioner as required by this section is liable to the commissioner for a penalty of ~~\$20~~ \$100 for each act or failure to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax. If the owner or managing agent willfully furnishes certificates that report total rent constituting property taxes in excess of the amount of actual property taxes paid on the rented part of a property, as determined under this section, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. If the owner or managing agent reports a total amount of rent constituting property taxes that exceeds by ten percent or more the actual property taxes, the report is deemed to be willful.

~~(b)~~ (c) If the owner or managing agent elects to provide the renter with the certificate at the time of moving, rather than after December 31, the amount of rent constituting property taxes shall be computed as follows:

(i) The net tax shall be reduced by 1/12 for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction pursuant to section 290A.03, subdivision 11, the gross rent paid through the last month of claimant's occupancy shall be substituted for "the gross rent paid for the calendar year for the property in which the unit is located."

~~(e)~~ (d) The certificate of rent constituting property taxes shall include the address of the property, including the county, and the property tax parcel identification number and any additional information which the commissioner determines is appropriate.

~~(d)~~ (e) If the owner or managing agent fails to provide the renter with a certificate of rent constituting property taxes, the commissioner shall allocate the net tax on the building to the unit on a square footage basis or other appropriate basis as the commissioner determines. The renter shall supply the commissioner with a statement from the county treasurer which gives the amount of property tax on the parcel, the address and property tax parcel identification number of the property, and the number of units in the building.

(f) The owner or managing agent must file a copy of the certificate of rent paid with the commissioner before April 15 of the year following the year in which the rent was paid. The commissioner may require that each owner or managing agent report on a single form the total property taxes for a property and the allocation of the property taxes as rent constituting property taxes among the renters of the property.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 11. AUDIT; REPORT TO LEGISLATURE.

The department of revenue shall, during fiscal years 1988 and 1989, verify and audit a sample of property tax refund claims for accuracy. The sampling methods, size of the sample, and the study methodology must permit reliable conclusions to be drawn regarding compliance with the property tax refund law by both renters and landlords regarding the reporting of household income, property taxes paid, and rent constituting property taxes by claimants and landlords. The department shall report the results of the study to the legislature by February 1, 1989.

Sec. 12. LIMITATIONS ON PROPERTY TAX REFUNDS.

(a) For claims filed based on rent paid in 1986 and property taxes payable in 1987, the commissioner shall pay 67 percent of the payments allowable under section 290A.04, subdivisions 1 and 2. The commissioner shall include with each reduced refund a statement that the reduction is required by this section.

(b) Minnesota Statutes 1986, section 290A.23 does not apply to claims based on property taxes payable in 1988 and rent paid in 1987 under section 290A.04, subdivisions 1 and 2. \$125,000,000 is appropriated to the commissioner of revenue for fiscal year 1989 to pay the claims. The commissioner shall estimate the amount of payments allowable under section 290A.04, subdivisions 1 and 2, by August 25, 1988. If the estimate exceeds the \$125,000,000 limitation, the commissioner shall proportionally reduce the refunds paid so that the refunds paid equal \$125,000,000. All refunds for claims based on property taxes payable in 1988 and rent paid in 1987 must be reduced by the same percentage. If reduced, the commissioner shall include with each refund a statement that the reduction is required by this section.

Sec. 13. REPEALER.

Minnesota Statutes 1986, section 290A.04, subdivisions 2c and 2g, are repealed.

Sec. 14. EFFECTIVE DATE.

Sections 1 to 8 and 10 are effective for claims based on property taxes payable in 1988 and rent paid during calendar year 1987, and thereafter, except the requirement in section 10 that copies of the certificate of rent paid be filed with the commissioner of revenue is effective for rent paid during calendar year 1988. Section 9 is effective the day following final enactment and applies to all unclaimed warrants held by the commissioner on January 1, 1987, or issued after that date.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

ARTICLE 4

SALES TAX

Section 1. Minnesota Statutes 1986, section 297A.01, subdivision 3, is amended to read:

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter. "Sales" also include the transfer of computer software, meaning information and directions which dictate the function to be performed by data processing equipment and which are sold without adaptation to the specific requirements of the purchaser. This type of computer software, whether contained on tape, discs, cards, or other devices, shall be considered tangible personal property;

(b) The production, fabrication, printing or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing or processing;

(c) The furnishing, preparing or serving for a consideration of food, meals or drinks, not including meals or drinks served to patients or persons residing at hospitals, sanatoriums, nursing homes or senior citizens homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges; or the occasional meal thereof by a charitable or church organization. "Sales" also includes meals furnished by employers to employees at less than fair market value. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

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(vi) gum;

(vii) ice;

(viii) all food sold in vending machines;

(ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, massage parlors, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service ~~and~~, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association ~~but shall not apply with respect to the sale of a horse bred and born in the state of Minnesota;~~

(i) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter; and

(j) The furnishing for a consideration of services listed in this paragraph:

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

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

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) services provided by detective agencies, security services, burglar, fire alarm, and armored car services;

(v) pet grooming services; and

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub planting, pruning, bracing, spraying, and surgery; and tree trimming for public utility lines.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a corporation, partnership, or association for another corporation, partnership, or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity.

(k) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program.

Sec. 2. Minnesota Statutes 1986, section 297A.01, subdivision 4, is amended to read:

Subd. 4. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business. Property utilized by the owner only by leasing such property to others or by holding it in an effort to so lease it, and which is put to no use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale. Master computer software programs that are purchased and used to make copies for sale or lease are considered property purchased for resale. Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders for the erection of buildings or the alteration, repair or improvement of real property are "retail sales" or "sales at retail" in whatever quantity sold and

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whether or not for purpose of resale in the form of real property or otherwise. A sale of carpeting, linoleum, or other similar floor covering which includes installation of the carpeting, linoleum, or other similar floor covering is a contract for the improvement of real property. Aircraft and parts for the repair thereof purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing such aircraft to shareholders of the corporation shall ~~not~~ be considered property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association shall ~~not~~ be considered a sale ~~notwithstanding subdivision 3 if the tax imposed by this chapter was paid on the initial purchase as provided by this subdivision.~~

Leasing of aircraft utilized by a lessee for the purpose of leasing to others, whether or not the lessee also utilizes the aircraft for flight instruction where no separate charge is made for aircraft rental or for charter service, shall be considered a purchase for resale; provided, however, that a proportionate share of the lease payment reflecting use for flight instruction or charter service is subject to tax pursuant to section 297A.14.

Sec. 3. Minnesota Statutes 1986, section 297A.01, subdivision 8, is amended to read:

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges for services that are part of the sale, including charges up to 15 percent in lieu of tips, if the consideration for such charges is separately stated, but no deduction shall be allowed for charges for services that are part of a sale as defined in subdivision 3, clauses (b) to (f). A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales; or the amount refunded either in cash or in credit for property returned by purchasers ~~or the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.~~

Sec. 4. Minnesota Statutes 1986, section 297A.01, subdivision 11, is amended to read:

Subd. 11. "Tangible personal property" means corporeal personal property of any kind whatsoever, including property which is to become real property as a result of incorporation, attachment, or installation following its acquisition.

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Personal property does not include:

(a) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;

(b) property which is subject to an ad valorem property tax;

(c) property described in section 272.02, subdivision 1, clause (8), paragraphs (a) to (d);

(d) property described in section 272.03, subdivision 2, clauses (3) and (5).

Tangible personal property includes computer software, whether contained on tape, discs, cards, or other devices.

Sec. 5. Minnesota Statutes 1986, section 297A.01, is amended by adding a subdivision to read:

Subd. 18. CUSTOM COMPUTER PROGRAM. "Custom computer program" means a computer program prepared to the special order of the customer, either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program transferred. It includes those services represented by separately stated charges for modifications to an existing prewritten program that are prepared to the special order of the customer. It does not include a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification. For purposes of this subdivision:

(1) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored;

(2) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment; and

(3) "Computer program" means the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

Sec. 6. Minnesota Statutes 1986, section 297A.01, subdivision 15, is amended to read:

Subd. 15. "Farm machinery" means new or used machinery, equipment, implements, accessories and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals,

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dairy products, poultry and poultry products, fruits, vegetables, forage, grains and bees and apiary products. "Farm machinery" ~~shall include~~ includes

(1) machinery for the preparation, seeding or cultivation of soil for growing agricultural crops and sod, harvesting and threshing of agricultural products, harvesting or mowing of sod, and certain machinery for dairy, livestock and poultry farms; ~~together with;~~

(2) barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations; whether or not the equipment is installed by the seller and becomes part of the real property;

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, except irrigation equipment which is situated below ground and considered to be a part of the real property; ~~shall be included in the definition of farm machinery;~~ and

(4) logging equipment, including chain saws used for logging only if the engine displacement equals or exceeds five cubic inches; ~~shall be included in the definition of farm machinery.~~

Repair or replacement parts for farm machinery shall not be included in the definition of farm machinery.

Tools, shop equipment, grain bins, feed bunks, fencing material, communication equipment and other farm supplies shall not be considered to be farm machinery. "Farm machinery" does not include motor vehicles taxed under chapter 297B, snowmobiles, snow blowers, lawn mowers except those used in the production of sod for sale, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.

Sec. 7. Minnesota Statutes 1986, section 297A.14, is amended to read:

297A.14 ~~USING, STORING OR CONSUMING TANGIBLE PERSONAL PROPERTY; ADMISSIONS; UTILITIES USE TAX.~~

Subdivision 1. IMPOSITION. For the privilege of using, storing or consuming in Minnesota tangible personal property, tickets or admissions to places of amusement and athletic events, electricity, gas, and local exchange telephone service purchased for use, storage or consumption in this state, a use tax is imposed on every person in this state at the rate of ~~six percent of tax imposed under section 297A.02~~ on the sales price of sales at retail of the items, unless the tax imposed by section 297A.02 was paid on the sales price. Notwithstanding the provisions of the preceding sentence, the rate of the use tax imposed upon the sales price of sales of special tooling, and capital equipment is four percent and upon the sales price of sales of farm machinery is two percent.

Subd. 2. MOTOR VEHICLES. A motor vehicle subject to tax under this section shall be taxed at its fair market value at the time of transport into

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Minnesota if the motor vehicle was acquired more than three months prior to its transport into this state.

Sec. 8. Minnesota Statutes 1986, section 297A.18, is amended to read:

297A.18 ADVERTISING NO TAX; MINIMUM TAX.

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the use tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded except that in computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

It is unlawful for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this state, that states that no sales or use tax is due under this chapter, when the person knows the advertisement is false.

Sec. 9. Minnesota Statutes 1986, section 297A.211, subdivision 2, is amended to read:

Subd. 2. (a) Such persons, when properly registered as retailers, may make purchases in this state, or import property into this state, without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

(b) Any person described in subdivision 1 may elect to pay directly to the commissioner any sales or use tax that may be due under this chapter for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment shall be multiplied by a fraction, the numerator of which is the mileage operated during the past calendar year within the state of Minnesota and the denominator is the total mileage operated during the past calendar year. The amount so determined shall be multiplied by the tax rate to disclose the tax due.

In computing the tax under this section "sales price" does not include the amount of any tax, except any manufacturer's or importer's excise tax, imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer.

(d) Each such retailer shall make a return and remit to the commissioner the tax due for the preceding calendar month in accordance with the provisions of sections 297A.26 and 297A.27.

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Sec. 10. Minnesota Statutes 1986, section 297A.211, is amended by adding a subdivision to read:

Subd. 4. Notwithstanding subdivisions 1 to 3, the commissioner may enter into an agreement with the commissioner of public safety, whereby upon approval of both commissioners, the commissioner of public safety will collect the motor vehicle excise tax from persons defined in subdivision 1. For the purpose of collecting the tax, the commissioner of public safety shall act as the agent of the commissioner of revenue and shall be subject to all rules not inconsistent with the provisions of this chapter, that may be prescribed by the commissioner.

Sec. 11. [297A.212] RAILROAD ROLLING STOCK.

Railroad rolling stock used by a railroad operating in this state that is licensed as a common carrier by the Interstate Commerce Commission and used to transport persons or property in interstate or foreign commerce is subject to taxation under this chapter only to the extent provided in this section. The ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier must be determined at the close of the carrier's fiscal year. This ratio must be applied each month to the purchase price of total purchases of rolling stock that are used in this state by the railroad to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. "Railroad rolling stock" means all portable or moving apparatus and machinery of a railroad company and includes engines, cars, tenders, coaches, sleeping cars, and parts necessary for the repair and maintenance of the rolling stock.

Sec. 12. Minnesota Statutes 1986, section 297A.25, subdivision 3, is amended to read:

Subd. 3. **MEDICINES; MEDICAL DEVICES.** The gross receipts from the sale of prescribed drugs ~~and~~ prescribed medicine and insulin, intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings ~~and products consumed by humans for the preservation of health~~ are exempt, ~~including together with~~ prescription glasses, therapeutic, and prosthetic devices; ~~but not including~~ cosmetics or toilet articles notwith- ~~standing the presence of medicinal ingredients therein.~~

Sec. 13. Minnesota Statutes 1986, section 297A.25, subdivision 7, is amended to read:

Subd. 7. **PETROLEUM PRODUCTS.** The gross receipts from the sale of and storage, use or consumption of the following petroleum products are exempt:

(1) products upon which a tax has been imposed and paid under the provisions of chapter 296, ~~whether or not any part of said tax may be subsequently refunded and no refund has been or will be allowed because the buyer used the fuel for nonhighway use,~~ or

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(2) products which are used in the improvement of agricultural land by constructing, maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water impoundment, and other erosion control structures.

Sec. 14. Minnesota Statutes 1986, section 297A.25, subdivision 11, is amended to read:

Subd. 11. **SALES TO GOVERNMENT.** The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities ~~or a state and its agencies, instrumentalities, and political subdivisions of the state~~ are exempt. ~~Sales exempted by this subdivision include sales pursuant to section 297A.01, subdivision 3, clauses (d) and (f).~~ This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities.

Sec. 15. Minnesota Statutes 1986, section 297A.25, subdivision 12, is amended to read:

Subd. 12. **OCCASIONAL SALES.** The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale are exempt. ~~For purposes of this subdivision, sales by a nonprofit organization shall be deemed to be "isolated or occasional" if they occur at sale events that have a duration of three or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organization are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this subdivision shall be available only if the sum of the days on which the organization and any subsidiary nonprofit organization sponsored by it that does not have a separate sales tax exemption permit conduct sales of tangible personal property, plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement, does not exceed eight days in a calendar year. For purposes of this subdivision, a "nonprofit organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual.~~

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Sec. 16. Minnesota Statutes 1986, section 297A.25, is amended by adding a subdivision to read:

Subd. 35. FOOD STAMPS. The gross receipts from the sale of tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program are exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

Sec. 17. Minnesota Statutes 1986, section 297A.25, is amended by adding a subdivision to read:

Subd. 36. INCOMING, INTERSTATE WATS LINES. The gross receipts from the sale of long distance telephone services are exempt, if the service consists of a wide area telephone line that permits a long distance call to an individual or business located in Minnesota to be made from a location outside of Minnesota at no toll charge to the person placing the call.

Sec. 18. Minnesota Statutes 1986, section 297A.256, is amended to read:

297A.256 EXEMPTIONS FOR CERTAIN NONPROFIT GROUPS.

Notwithstanding the provisions of this chapter, the following sales made by a "nonprofit organization" are exempt from the sales and use tax.

(a) All sales made by an organization for fundraising purposes if that organization exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(b) All sales made by an organization for fundraising purposes if that organization is a senior citizen group ~~which qualifies for exemption on its purchases pursuant to section 297A.25, subdivision 16~~ or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and no part of the net earnings inure to the benefit of any private shareholders. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(c) The gross receipts from the sales of tangible personal property at, admission charges for, and sales of food, meals, or drinks at fundraising events sponsored by a nonprofit organization when the entire proceeds, except for the necessary expenses therewith, will be used solely and exclusively for charitable, religious, or educational purposes. This exemption does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities. For purposes of this clause, a "nonprofit organization" means any unit of govern-

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ment, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, senior citizens' or veterans' purposes, no part of the net earnings of which enures to the benefit of a private individual.

If the profits are not used solely and exclusively for charitable, religious, or educational purposes, the entire gross receipts are subject to tax.

Each nonprofit organization shall keep a separate accounting record, including receipts and disbursements from each fundraising event. All deductions from gross receipts must be documented with receipts and other records. If records are not maintained as required, the entire gross receipts are subject to tax.

The exemption provided by this section does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation.

The exemption for fundraising events under this section is limited to no more than 24 days a year. Fundraising events conducted on premises leased or occupied for more than four days but less than 30 days do not qualify for this exemption.

Sec. 19. Minnesota Statutes 1986, section 297A.26, is amended by adding a subdivision to read:

Subd. 4. When a retailer located outside of a city that imposes a local sales and use tax collects use tax to be remitted to that city, the retailer is not required to remit the tax until the amount collected reaches \$10.

Sec. 20. Minnesota Statutes 1986, section 297A.43, is amended to read:

297A.43 CONFIDENTIAL NATURE OF INFORMATION.

It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known in any manner any particulars disclosed in any report or return required by sections 297A.01 to 297A.44, or any information concerning the affairs of the person making the return acquired from the person's records, officers, or employees while examining or auditing under the authority of sections 297A.01 to 297A.44, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making such report or return or to comply with the provisions of section 297A.431 or where a question arises as to the proper tax applicable, that is, sales or use tax. In the latter instance, the commissioner may furnish information to a buyer and a seller with respect to the specific transaction in question. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

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The commissioner may enter into an agreement with the commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of a sales and/or use tax for the purpose of promoting fair and equitable administration of such acts and to eliminate double taxation.

Notwithstanding the above provisions of this section, the commissioner, in order to implement the purposes of this chapter, may furnish information on a reciprocal basis to the taxing officials of another state, or to the taxing officials of any municipality of the state of Minnesota which has a local sales and/or use tax. The commissioner may furnish to the Minnesota supreme court and the board of professional responsibility information regarding the amount of any uncontested delinquent taxes due under this chapter or a failure to file a return due under this chapter by an attorney admitted to practice law in this state under chapter 481. The commissioner may furnish information to taxing officials of another state where necessary in the administration of the laws of that state, to the extent that the state provides similar rights of examination or information to officials of this state, if the other state agrees to be subject to the confidentiality restrictions of this section.

In order to facilitate processing of returns and payments of taxes required by this chapter, the commissioner may contract with outside vendors and may disclose private and nonpublic data to the vendor. The data disclosed will be administered by the vendor consistent with this section.

Sec. 21. Minnesota Statutes 1986, section 297B.03, is amended to read:

297B.03 EXEMPTIONS.

There is specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

(1) Purchase or use, including use under a lease purchase agreement or installment sales contract made pursuant to section 465.71, of any motor vehicle by the United States and its agencies and instrumentalities and by any person described in and subject to the conditions provided in section 297A.25, subdivisions 11, 14, and subdivision 18.

(2) Purchase or use of any motor vehicle by any person who was a resident of another state at the time of the purchase and who subsequently becomes a resident of Minnesota, provided the purchase occurred more than 60 days prior to the date such person began residing in the state of Minnesota.

(3) Purchase or use of any motor vehicle by any person making a valid election to be taxed under the provisions of section 297A.211.

(4) Purchase or use of any motor vehicle previously registered in the state of Minnesota by any corporation or partnership when such transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code of 1954, as amended through December 31, 1974.

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(5) Purchase or use of any vehicle owned by a resident of another state and leased to a Minnesota based private or for hire carrier for regular use in the transportation of persons or property in interstate commerce provided the vehicle is titled in the state of the owner or secured party, and that state does not impose a sales or motor vehicle excise tax on motor vehicles used in interstate commerce.

Sec. 22. Minnesota Statutes 1986, section 297B.031, is amended to read:

**297B.031 REFUND OF TAX; MANDATORY REFUND OR REPLACE-
MENT LAWS.**

If a manufacturer of motor vehicles is required by a court order under section 325F.665 or a decision of an informal dispute settlement mechanism as defined in section 325F.665, subdivision 3, to refund pay the consumer the tax imposed by this chapter, a portion of the tax so paid by the purchaser shall be refunded to the manufacturer. The amount of the refund shall be the tax paid by the purchaser less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle. The refund shall be paid to the manufacturer only upon filing of a written application, in a form and providing information as prescribed by the commissioner. Payment of a refund pursuant to this section shall be made out of the general and highway user funds in the same proportion provided for deposit of tax proceeds for the fiscal year pursuant to section 297B.09, subdivision 1. The amounts necessary to pay the refunds are appropriated out of the respective funds.

Sec. 23. Minnesota Statutes 1986, section 325F.665, subdivision 3, is amended to read:

Subd. 3. MANUFACTURER'S DUTY TO REFUND OR REPLACE. (a)

If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall, at the consumer's option, either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, or the total amount actually paid by the consumer under any vehicle lease, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price or full lease cost of the vehicle, whichever is less. Refunds must be made

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to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. Refunds shall include the amount stated by the dealer as the trade-in value of a consumer's used motor vehicle, plus any additional amount paid by the consumer for the new motor vehicle. For a lease vehicle, refunds shall include the total amount actually paid by the consumer under any vehicle lease, less any finance charges paid by the consumer. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer prior to the first report of the nonconformity to the manufacturer, agent, or dealer. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(b) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more business days during the term or during the period, whichever is the earlier date.

(c) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the nonconformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, and the nonconformity continues to exist.

(d) The term of an express warranty, the one-year period and the 30-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

(e) The presumption contained in paragraph (b) applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested.

(f) A consumer is eligible to receive a refund or replacement vehicle under this section if the nonconformity is reported to the manufacturer, its authorized

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agent or dealer, at any time during the motor vehicle's express warranty period, even if the motor vehicle's express warranty expires before the requirements of paragraphs (a), (b), and (c) have been met.

(g) At the time of purchase the manufacturer must provide directly to the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE."

(h) The amount of the sales tax to be paid by the manufacturer to the consumer under paragraph (a) shall be the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle.

Sec. 24. Minnesota Statutes 1986, section 360.654, is amended to read:

360.654 AIRCRAFT DEALER'S COMMERCIAL USE PERMIT.

Upon written application by a dealer licensed in accordance with section 360.63 and payment of a fee of \$20 for each aircraft identified in the application, the commissioner of revenue shall issue a commercial use permit which shall entitle the dealer to use the aircraft for commercial purposes ~~without payment of the tax imposed by section 297A.02 or 297A.14~~ for a period of 12 months or until the aircraft is sold, whichever first occurs. The dealer shall pay the tax imposed by section 297A.14 on all consideration received for use of the aircraft for commercial purposes during the period the dealer holds the commercial use permit. Commercial purposes as used herein does not include rental or lease of the aircraft for which the aircraft dealers normally collect the sales tax from their customers. Applications shall be on forms prescribed and furnished by the commissioner of revenue and shall include the federal aircraft registration number of each aircraft for which a permit is to be issued. A permit shall be affixed to the dealer's license and shall be conspicuously displayed in the aircraft for which it was issued, which aircraft shall remain in the possession of or under the control of the licensed dealer to whom the permit was issued. The permit shall expire and the tax imposed by section 297A.02 or 297A.14 shall become due upon either sale of the aircraft by the dealer or expiration of the 12-month period. If the aircraft has not been sold within the 12-month period the tax is due on the purchase price of the aircraft and its auxiliary equipment to the dealer and the tax imposed by section 297A.02 shall become due on the eventual sale of the aircraft. Laws 1971, chapter 740 shall in no way apply to registration or taxation pursuant to sections 360.511 to 360.67.

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Sec. 25. REPEALER.

(a) Minnesota Statutes 1986, section 270.89 is repealed.

(b) Minnesota Statutes 1986, section 297A.25, subdivision 13, is repealed.

(c) Laws 1986, chapter 391, section 3, is repealed.

Sec. 26. EFFECTIVE DATE.

Sections 1, paragraphs (a), (c), (d), except the reference to having access to and the use of amusement devices and athletic facilities, (f), and (k), 2, 4, 5, 11 to 14, 17, 20, 21, and 25, paragraph (b), are effective for sales at retail made after May 31, 1987, but shall not apply to sales of tangible personal property made pursuant to bona fide written contracts that were enforceable before June 1, 1987, and delivery is made on or before December 31, 1987. Section 6 is effective for sales at retail made after May 31, 1987. Sections 3, 8, 9, 24, and 25, paragraph (a), are effective June 1, 1987. Section 16 is effective for sales after September 30, 1987. The reference to having access to and the use of amusement devices and athletic facilities in section 1, paragraph (d), is effective February 1, 1987. Section 1, paragraphs (i) and (j), are effective for services provided after June 30, 1987, except that taxation of services described in paragraph (j), clauses (i), (iii), (iv), and (vi), is effective for services provided after September 30, 1987. Section 10 is effective upon approval of the agreement by the commissioner of revenue and the commissioner of public safety.

ARTICLE 5**PROPERTY TAXES**

Section 1. Minnesota Statutes 1986, section 273.11, subdivision 8, is amended to read:

Subd. 8. LIMITED EQUITY COOPERATIVE APARTMENTS. For the purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

A "limited equity cooperative" is a corporation organized under chapter 308, which has as its primary purpose the provision of housing and related services to its members, whose income must not exceed 90 percent of the median St. Paul-Minneapolis metropolitan area income as determined by the United States Department of Housing and Urban Development at the time they purchase their membership, and which meets the following requirements:

(a) The articles of incorporation set the sale price of occupancy entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles. That value may not exceed the sum of the following:

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(1) the consideration paid for the membership or shares by the first occupant of the unit, as shown in the records of the corporation;

(2) the fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;

(3) accumulated interest, or an inflation allowance not to exceed the greater of a ten percent annual noncompounded increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest had been paid on it at the rate of the percentage increase in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed \$500 for each year or fraction of a year the membership or share was owned; plus

(4) real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the use of which is restricted to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.

(b) The articles of incorporation require that the board of directors limit the purchase price of stock or membership interests for new member-occupants or resident shareholders to an amount which does not exceed the transfer value for the membership or stock as defined in clause (a).

(c) The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.

(d) The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1984~~ 1986, or a public agency.

A "limited equity cooperative apartment" is a dwelling unit owned ~~or leased~~ by a limited equity cooperative. ~~If the dwelling unit is leased by the cooperative the lease agreement must meet the conditions for a cooperative lease stated in section 273.124, subdivision 6.~~

"Occupancy entitling cooperative share or membership" is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

For purposes of taxation, the assessor shall value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions of clauses (a) to (d), the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this subdivision had not applied to it. The additional taxes, plus interest at the rate specified in section 549.09, shall be extended against the property on the tax list for the current year.

Sec. 2. [273.1195] STATE PAID SMALL BUSINESS PROPERTY TAX TRANSITION CREDIT.

For property taxes payable in 1988 only, class 3a commercial industrial property is eligible for a state paid small business transition property tax credit if the payable 1988 property taxes on the first \$120,000 of market value of the property exceed three percent of the January 2, 1987 market value. The credit is equal to 50 percent of the property tax amount which is in excess of three percent of market value. Only the first \$120,000 of market value of a qualifying parcel and the taxes attributable to the first \$120,000 of market value are eligible for the computation of this credit. Only a parcel that qualifies for the 28 percent assessment ratio contained in section 273.13, subdivision 24, paragraph (a), qualifies for the credit provided in this section.

In the case of taxes paid in installments pursuant to section 279.01, subdivision 1, the credit under this section must be deducted from the second one-half installment payable October 15. The amount of the reduction must be reported to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29.

There is annually appropriated from the general fund to the commissioners of revenue and education the amount necessary to replace the revenue lost to local units of government and school districts as a result of the reduction in property taxes provided in this section. The payment amounts must be determined and the installments paid under the provisions of sections 273.13, subdivision 15a, and 273.1392.

Sec. 3. Minnesota Statutes 1986, section 273.124, subdivision 7, is amended to read:

Subd. 7. **LEASED BUILDINGS OR LAND.** For purposes of class 1 determinations, homesteads include:

(a) buildings and appurtenances owned and used by the occupant as a permanent residence which are located upon land the title to which is vested in a person or entity other than the occupant;

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(b) all buildings and appurtenances located upon land owned by the occupant and used for the purposes of a homestead together with the land upon which they are located, if all of the following criterial are met:

(1) the occupant is using the property as a permanent residence;

(2) the occupant is paying the property taxes and any special assessments levied against the property;

(3) the occupant has signed a lease which has an option to purchase the buildings and appurtenances; ~~and~~

(4) the term of the lease is at least five years; and

(5) the occupant has made a down payment of at least \$5,000 in cash if the property was purchased by means of a contract for deed or subject to a mortgage.

Any taxpayer meeting all the requirements of this paragraph must notify the county assessor, or the assessor who has the powers of the county assessor pursuant to section 273.063, in writing, as soon as possible after signing the lease agreement and occupying the buildings as a homestead.

Sec. 4. Minnesota Statutes 1986, section 273.13, subdivision 22, is amended to read:

Subd. 22. **CLASS 1.** (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first ~~\$64,000~~ \$68,000 of market value of class 1a property must be assessed at ~~18~~ 17 percent of its market value. The homestead value of class 1a property that exceeds ~~\$64,000~~ \$68,000 must be assessed at ~~28~~ 27 percent of its value.

(b) Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

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(iii) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to clause (1) only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of human services shall provide a copy of the certification to the commissioner of revenue.

Class 1b property is valued and assessed as follows: in the case of agricultural land, including a manufactured home, used for a homestead, the first ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at five percent, the next ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at 14 percent, and the remaining market value shall be valued and assessed at 18 percent; and in the case of all other real estate and manufactured homes, the first ~~\$32,000~~ \$34,000 of market value shall be valued and assessed at five percent, the next ~~\$32,000~~ \$34,000 of market value shall be valued and assessed at ~~18~~ 17 percent, and the remaining market value shall be valued and assessed at ~~28~~ 27 percent. In the case of agricultural land including a manufactured home used for purposes of a homestead, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 percent rates; and for all other real estate and manufactured homes, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and ~~18~~ 17 percent

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rates. Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner. It must be assessed at 12 percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

(d) The tax to be paid on class 1a or class 1b property, less any reduction received pursuant to sections 273.123 and 473H.10, shall be reduced by 54 percent of the tax imposed on the first \$68,000 of market value. The amount of the reduction shall not exceed \$700.

Sec. 5. Minnesota Statutes 1986, section 273.133, subdivision 3, is amended to read:

Subd. 3. **LEASEHOLD COOPERATIVES.** When one or more dwellings or one or more buildings which each contain several dwelling units is owned by a nonprofit corporation subject to the provisions of chapter 317 or a limited partnership which corporation or partnership operates the property in conjunction with a cooperative association, homestead treatment, as provided under section 273.13, subdivision 7, may be claimed for each dwelling unit occupied by a member of the cooperative. To qualify for the treatment provided by this subdivision, the following conditions shall be met: (a) the cooperative association must be organized under sections 308.05 to 308.18; (b) the cooperative association must have a lease for occupancy of the property for a term of at least 20 years; (c) the cooperative association must have a right under a written agreement with the owner to purchase the property if the owner proposes to sell it; if the cooperative association does not purchase the property when it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale; (d) the cooperative must meet one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 90 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" shall mean the income of a member existing at the time the member acquires his or her cooperative membership, and median income shall mean the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development; and (e) if a limited partnership owns the property, it must include as the managing

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general partner either the cooperative association or a nonprofit organization operating under the provisions of chapter 317. Homestead treatment shall be afforded to units occupied by members of the cooperative association and the units shall be assessed as provided in subdivision 1, provided that any unit not so occupied shall be classified and assessed pursuant to section 273.13, subdivision 19. No more than three acres of land shall, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

Sec. 6. Minnesota Statutes 1986, section 273.1392, is amended to read:

273.1392 PAYMENT; AIDS TO SCHOOL DISTRICTS.

The amounts of homestead credit under section 273.13, subdivisions 22 and 23; wetlands credit and reimbursement under section 273.115; native prairie credit and reimbursement under section 273.116; small business transition credit under section 2; disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

Sec. 7. Minnesota Statutes 1986, section 273.1393, is amended to read:

273.1393 COMPUTATION OF NET PROPERTY TAXES.

Notwithstanding any other provisions to the contrary, "net" property taxes are determined by subtracting the credits in the order listed from the gross tax:

- (1) small business property tax transition credit as provided in section 2;
- (2) disaster credit as provided in section 273.123;
- ~~(2)~~(3) wetlands credit as provided in section 273.115;
- ~~(3)~~(4) native prairie credit as provided in section 273.116;
- ~~(4)~~(5) powerline credit as provided in section 273.42;
- ~~(5)~~(6) agricultural preserves credit as provided in section 473H.10;
- ~~(6)~~(7) enterprise zone credit as provided in section 273.1314;
- ~~(7)~~(8) state school agricultural credit as provided in section 124.2137;
- ~~(8)~~(9) state paid homestead credit as provided in section 273.13, subdivisions 22 and 23;
- ~~(9)~~(10) taconite homestead credit as provided in section 273.135;
- ~~(10)~~(11) supplemental homestead credit as provided in section 273.1391.

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The combination of all property tax credits must not exceed the gross tax amount.

Sec. 8. [273.1397] **INCOME MAINTENANCE TAX DISPARITY AID.**

Subdivision 1. DEFINITIONS. (a) In this section, the following terms have the meanings given them.

(b) "Income maintenance programs" means general assistance payments as defined in section 256D.02, subdivision 4, less any amounts paid under the third paragraph of section 256D.03, subdivision 2; general assistance medical care payments as defined in section 256D.02, subdivision 4a; and work readiness assistance under section 256D.051.

(c) "Unreimbursed local share" means the county's cost of income maintenance programs for the previous state fiscal year, excluding administrative costs, and excluding costs that are reimbursed by the federal government, or by the state under section 256D.03, subdivisions 2, 4, and 6.

(d) "Adjusted assessed value" has the meaning given it in section 124A.02, subdivision 3a.

(e) "Preliminary aid amount" means the unreimbursed local share, less the product of one-half mill times the most recent adjusted assessed value of all taxable property in the county excluding the captured value of tax increment financing property and the net value adjustment under chapter 473F.

Subd. 2. AID TO COUNTY. A county whose preliminary aid amount is greater than zero shall receive a payment equal to the lesser of (1) the preliminary aid amount, or (2) 95 percent of the unreimbursed local share. The commissioner of revenue shall annually determine the amounts pursuant to this section and shall notify the county of the resulting income maintenance tax disparity aid amount. The commissioner of revenue shall pay to each affected county treasurer the county's total payment for the year in equal installments on or before July 15 and December 15 of each year.

Subd. 3. APPROPRIATION. An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 9. Minnesota Statutes 1986, section 276.04, is amended to read:

276.04 NOTICE OF RATES; PROPERTY TAX STATEMENTS.

On receiving the tax lists from the county auditor, the county treasurer shall, if directed by the county board, give three weeks' published notice in a newspaper specifying the rates of taxation for all general purposes and the amounts raised for each specific purpose. The treasurer shall, whether or not directed by the county board, cause to be printed on all tax statements, or on an attachment, a tabulated statement of the dollar amount due to each taxing

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authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district shall be separately stated but the amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in bold face print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT." The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property. The county treasurer shall mail to taxpayers statements of their personal property taxes due, such statements to be mailed not later than February 15 (except in the case of manufactured homes and sectional structures taxed as personal property), statements of the real property taxes due shall be mailed not later than January 31; provided, that the validity of the tax shall not be affected by failure of the treasurer to mail such statement. The taxpayer is defined as the owner who is responsible for the payment of the tax. Such real and personal property tax statements shall contain the market value, as defined in section 272.03, subdivision 8, used in determining the tax. The statement shall show the amount attributable to section 124.2137 as "state paid agricultural credit" and the amount attributable to section 273.13, subdivisions 22 and 23 as "state paid homestead credit." The statement must state the amount deducted under section 2 and identify it as "state paid small business transition credit." If so directed by the county board, the treasurer shall visit places in the county as the treasurer deems expedient for the purpose of receiving taxes and the county board is authorized to pay the expenses of such visits and of preparing duplicate tax lists. Failure to mail the tax statement shall not be deemed a material defect to affect the validity of any judgment and sale for delinquent taxes.

Sec. 10. Minnesota Statutes 1986, section 477A.012, subdivision 1, is amended to read:

Subdivision 1. **AID AMOUNT.** In calendar year ~~1987~~ 1988 and calendar years thereafter, each county government shall receive a distribution equal to ~~104 percent~~ of the aid amount certified for ~~1986~~ 1987 pursuant to sections 477A.011 to 477A.03. ~~Each county government that received no distribution in 1986 pursuant to sections 477A.011 to 477A.03 shall receive a distribution in calendar year 1987 computed by multiplying the county's population by a factor equal to the total increase in aid certified to all other counties under this section in 1987 over the total amount certified in 1986, divided by the total population of these counties this subdivision.~~

Sec. 11. Minnesota Statutes 1986, section 477A.013, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

477A.013 MUNICIPAL GOVERNMENT DISTRIBUTIONS.

Subdivision 1. **TOWNS.** In calendar year 1987 1988 and calendar years thereafter, each town which had levied for taxes payable in the previous year at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to ~~104 percent~~ of the greater of: (a) 60 percent of the amount received in 1983 pursuant to Minnesota Statutes 1982, sections 273.138, 273.139, and 477A.011 to 477A.03; or (b) the amount received certified in 1986 1987 pursuant to sections 477A.011 to 477A.03.

Subd. 2. **CITIES.** In calendar year 1987 1988 and calendar years thereafter, each city shall receive a local government aid distribution as ~~determined by the following steps:~~

(1) A preliminary aid amount shall be computed for each city equal to the amount obtained by subtracting its local effort mill rate multiplied by its equalized assessed value from its fiscal need factor, except that its preliminary aid amount may not be less than its previous year aid amount.

For any city which received more than \$70 per capita in attached machinery aids in 1983 pursuant to Minnesota Statutes 1982, section 273.138, an amount equal to the amount of attached machinery aids received in 1983 shall be added to the preliminary aid amount.

(2) For each city, an aid increase amount equal to the amount by which its preliminary aid amount exceeds its previous year aid amount shall be determined. Each city's aid increase amount shall be reduced by a uniform percentage as determined by the commissioner of revenue, to make the sum of the final aid distributions for all cities equal the aid limitation imposed by subdivision 3.

(3) Each city's final aid amount shall be equal to the sum of its aid increase amount, as adjusted, and its previous year aid amount; provided, however, that no city's aid shall exceed its maximum aid amount, and further provided that no city which is a city of the first class shall have a final aid amount which is less than 102 percent of its previous year aid.

Subd. 3. **AID LIMITATION.** The total amount available for distribution to cities pursuant to subdivision 2 shall be \$297,440,000 for calendar year 1987 equal to the amount that the city was certified to receive for calendar year 1987 under this subdivision.

Sec. 12. LEVY LIMITATIONS FOR TAXES PAYABLE IN 1988.

Subdivision 1. **GENERALLY.** Notwithstanding any other law to the contrary, for taxes levied in 1987, payable in 1988 only, the provisions of Minnesota Statutes, sections 275.50 to 275.56, shall not apply, and the provisions of this section shall govern the levies for all counties and all cities regardless of population.

Subd. 2. **CITIES.** For any home rule charter or statutory city, the levy limit base for taxes payable in 1988 is the sum of (1) the city's total levy for taxes payable in 1987, excluding the amount levied in that year for debt service and the amount claimed as a special levy for unfunded accrued pension liabilities under section 275.50, subdivision 5, clause (o); and (2) the amount received in

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1987 under Minnesota Statutes 1986, section 275.51, subdivision 3i. This sum shall be increased by a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived under Minnesota Statutes, section 275.51, subdivision 6. The resulting amount for each home rule charter or statutory city multiplied by 103 percent is the city's levy limit base for taxes payable in 1988. The payable 1988 levy limitation for each city shall be equal to the levy limit base determined under this section reduced by the aids for 1988 enumerated in section 275.51, subdivision 3i.

Subd. 3. COUNTIES. For any county, the levy limit base for taxes payable in 1988 is the sum of (1) the county's total levy for taxes payable in 1987, excluding the amount levied in that year for (a) debt service; (b) amount claimed as a special levy for unfunded accrued pension liabilities under section 275.50, subdivision 5, clause (o); (c) income maintenance programs except for the administrative costs associated with those programs; and (d) social services programs, including the administrative costs associated with those programs, plus (2) the amount received in 1987 under Minnesota Statutes 1986, section 275.51, subdivision 3i. This sum shall be increased by a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived under Minnesota Statutes, section 275.51, subdivision 6. The resulting amount for each county multiplied by 103 percent is the county's levy limit base for taxes payable in 1988. The payable 1988 levy limitation for each county shall be equal to the levy limit base determined under this section reduced by the aids for 1988 enumerated in section 275.51, subdivision 3i.

Subd. 4. EXCEPTIONS. For taxes payable in 1988, the amounts levied for the following costs are not subject to the limitation under subdivision 2 or 3:

- (1) levies for debt service,
- (2) levies for unfunded accrued pension liabilities as specified under section 275.50, subdivision 5, clause (o),
- (3) levies for income maintenance programs, net of any aid payments received under section 8, and excluding the administrative costs associated with those programs, and
- (4) levies for social service programs including the administrative costs associated with those programs.

The amount levied by the county for taxes payable in 1988 to pay the costs of programs described in clauses (3) and (4) of this subdivision shall be subject to the percentage limitations provided in section 275.50, subdivision 5, clause (d).

Subd. 5. APPEALS. A governmental subdivision subject to the limitations in this section may appeal to the commissioner of revenue for an adjustment in its levy limit base under this section. If the governmental subdivision can

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provide evidence satisfactory to the commissioner that its levy for taxes payable in 1987 had been reduced because it had made expenditures from reserve funds, or for any other reason, or that it is necessary to levy additional amounts for taxes payable in 1988 which were not levied in 1987, the commissioner may permit the governmental subdivision to increase its levy limit base under this section by the amount determined by the commissioner. The commissioner's decision is final.

Sec. 13. EFFECTIVE DATE.

Sections 1, 3, 4, 5, and 8 are effective for taxes levied in 1987 payable in 1988 and subsequent years.

ARTICLE 6

1989 AND SUBSEQUENT PROPERTY TAX

Section 1. Minnesota Statutes 1986, section 116C.63, subdivision 4, is amended to read:

Subd. 4. When private real property ~~defined as class 1a, 1b, 1c, 2a, 2e, 4a, 5a, or 6a pursuant to~~ that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 is proposed to be acquired for the construction of a site or route by eminent domain proceedings, the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner, shall have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which the owner or vendee wholly owns or has contracted to own in undivided fee and elects in writing to transfer to the utility within 60 days after receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. The owner or, when applicable, the contract vendee shall have only one such option and may not expand or otherwise modify an election without the consent of the utility. The required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a high voltage transmission line right-of-way shall automatically be converted into a fee taking.

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Sec. 2. Minnesota Statutes 1986, section 124.155, subdivision 2, is amended to read:

Subd. 2. **ADJUSTMENT TO AIDS.** The amount specified in subdivision 1 shall be used to adjust the following state aids and credits in the order listed:

- (a) foundation aid as defined in section 124A.01;
- (b) secondary vocational aid authorized in section 124.573;
- (c) special education aid authorized in section 124.32;
- (d) secondary vocational aid for handicapped children authorized in section 124.574;
- (e) gifted and talented aid authorized in section 124.247;
- (f) aid for pupils of limited English proficiency authorized in section 124.273;
- (g) aid for chemical use programs authorized in section 124.246;
- (h) interdistrict cooperation aid authorized in section 124.272;
- (i) summer program aid authorized in section 124A.033;
- (j) transportation aid authorized in section 124.225;
- (k) community education programs aid authorized in section 124.271;
- (l) adult education aid authorized in section 124.26;
- (m) early childhood family education aid authorized in section 124.2711;
- (n) capital expenditure equalization aid authorized in section 124.245;
- (o) homestead credit replacement aid authorized in section ~~273.13~~, subdivisions ~~22 and 23~~ 273.1394;
- (p) ~~state school~~ agricultural ~~tax~~ credit replacement aid authorized in section ~~124.2137~~ 273.1395;
- (q) ~~wetlands credit~~ authorized in section ~~273.115~~;
- (~~r~~) ~~native prairie credit~~ authorized in section ~~273.116~~;
- (~~s~~) attached machinery aid authorized in section 273.138, subdivision 3; and
- (~~t~~) (r) teacher retirement and F.I.C.A. aid authorized in sections 124.2162 and 124.2163.

The commissioner of education shall schedule the timing of the adjustments

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to state aids and credits specified in subdivision 1, as close to the end of the fiscal year as possible.

Sec. 3. Minnesota Statutes 1986, section 124.2131, subdivision 3, is amended to read:

Subd. 3. **DECREASE IN IRON ORE ASSESSED VALUE.** If in any year the assessed value of ~~class 9a and 9b~~ iron ore property, as defined in section 273.13, ~~subdivision 30;~~ in any district is less than the assessed value of such property in the ~~immediately~~ preceding year, the equalization aid review committee shall redetermine for all purposes the adjusted assessed value of the ~~immediately~~ preceding year taking into account only the decrease in assessed value of ~~class 9a and 9b~~ iron ore property. If subdivision 2, clause (a) is applicable to ~~such a~~ the district, the decrease in ~~class 9a and 9b~~ iron ore property shall be applied to the adjusted assessed value as limited therein. In all other respects, the provisions of clause (1) shall ~~be applicable~~ apply.

Sec. 4. Minnesota Statutes 1986, section 124.2139, is amended to read:

124.2139 REDUCTION OF HOMESTEAD CREDIT PAYMENTS TO SCHOOL DISTRICTS.

The commissioner of revenue shall reduce homestead credit replacement aid payments made to school districts pursuant to section ~~273.13; subdivisions 22 and 23;~~ 273.1394 by the product of:

- (1) the district's fiscal year 1984 payroll for coordinated plan members of the public employees retirement association, times
- (2) the difference between the employer contribution rate in effect prior to July 1, 1984, and the total employer contribution rate in effect after June 30, 1984.

Sec. 5. Minnesota Statutes 1986, section 124A.02, subdivision 11, is amended to read:

Subd. 11. **MINIMUM AID.** A qualifying district's minimum aid for each school year shall equal its minimum guarantee for that school year, minus the sum of:

(1) the amount of the district's ~~state school~~ homestead credit replacement aid paid under section 273.1394 and its agricultural tax credit replacement aid under section 273.1395 for that school year, after any positive tax base adjustment but prior to any negative tax base adjustment under section 273.1396;

(2) ~~the amount by which property taxes of the district for use in that school year are reduced by the homestead credit provisions in section 273.13; subdivisions 22 and 23;~~

(3) ~~the amount by which property taxes of the district for use in that school year are reduced by the taconite homestead credit provisions in section 273.135;~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(4) the amount by which property taxes of the district for use in that school year are reduced by the attached machinery provisions in section 273.138, subdivision 6;

(5) the amount by which property taxes of the district for use in that school year are reduced by the state paid wetlands credit provisions in section 273.115;

(6) the amount by which property taxes of the district for use in that school year are reduced by the state paid native prairie credit provisions in section 273.116;

(7) (3) the amount by which property taxes of the district for use in that school year are reduced by the state reimbursed disaster or emergency reassessment provisions in section 273.123; and

(8) (4) the amount by which property taxes of the district for use in that school year are reduced by the metropolitan agricultural preserve provisions in section 473H.10.

Sec. 6. Minnesota Statutes 1986, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity except parcels of property containing structures and the structures assessed as class 7(a), (b), (c), or (d) described in section 273.13, subdivision 25, paragraph (c), clauses (1) or (2), or paragraph (d), clause (2);
- (7) All public property exclusively used for any public purpose;
- (8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d) shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

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(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Real and personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, other than real property used primarily as a solid waste disposal site.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the

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purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1982~~ 1986, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8 and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band;

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band; and

(c) a facility at which a licensed Minnesota manufacturer produces distilled spirituous liquors, liqueurs, cordials, or liquors designated as specialties regardless of alcoholic content, but not including ethyl alcohol, distilled with a majority of the ingredients grown or produced in Minnesota.

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An exemption provided by paragraph (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

Sec. 7. Minnesota Statutes 1986, section 272.02, subdivision 1a, is amended to read:

Subd. 1a. The exemptions granted by subdivision 1 are subject to the limits contained in the other subdivisions of this section, section 272.025, or 273.13, subdivision ~~28~~ 25, paragraphs ~~(a); (b); (c) and (d)~~ (a); (b); (c) and (d) ~~paragraph (c), clause (1) or (2), or paragraph (d), clause (2).~~

Sec. 8. Minnesota Statutes 1986, section 272.115, subdivision 4, is amended to read:

Subd. 4. No real estate sold on or after January 1, 1978 for which a certificate of value is required pursuant to subdivision 1 shall receive the homestead credit provided under section 273.13, subdivisions ~~22 and 23~~; value exemption amount or the agricultural mill credit provided exemption amount computed in section 273.134 to 273.136; or the taconite homestead credit provided in sections 273.134 to 273.136, unless a certificate of value has been filed with the county auditor in accordance with this section.

This subdivision shall apply to any real estate taxes that are payable the year or years following the sale of the property.

Sec. 9. Minnesota Statutes 1986, section 273.1102, is amended to read:

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273.1102 RATE OF TAX, TERMINOLOGY OF LAWS OR CHARTERS.

Subdivision 1. PRE-1988 ADJUSTMENT. The rate of property taxation by any political subdivision or other public corporation for any purpose for which any law or charter now provides a maximum tax rate expressed in mills times the assessed value or times the full and true value of taxable property (except any value determined by the state equalization aid review committee) shall not exceed 33-1/3 percent of such maximum tax rate until and unless such law or charter is amended to provide a different maximum tax rate.

Subd. 2. 1988 ADJUSTMENT. The rate of property taxation, salary limits, or aid formulas set for any political subdivision or other public corporation for which any law or charter provide a maximum tax rate expressed in mills effective on July 1, 1988, shall be adjusted by multiplying the mill rate provision in effect for taxes levied in 1987, payable in 1988, by 45 percent.

Sec. 10. Minnesota Statutes 1986, section 273.1104, subdivision 1, is amended to read:

Subdivision 1. The term value as applied to iron ore in sections 273.165, subdivision 2 and 273.13, subdivision ~~30~~ **31**, ~~paragraph (b)~~ shall be deemed to be three times the present value of future income notwithstanding the provisions of section 273.11. The present value of future income shall be determined by the commissioner of revenue in accordance with professionally recognized mineral valuation practice and procedure. Nothing contained herein shall be construed as requiring any change in the method of determining present value of iron ore utilized by the commissioner prior to the enactment hereof or as limiting any remedy presently available to the taxpayer in connection with the commissioner's determination of present value, or precluding the commissioner from making subsequent changes in the present worth formula.

Sec. 11. Minnesota Statutes 1986, section 273.123, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section (a) "disaster or emergency" means

- (1) a major disaster as determined by the president of the United States;
- (2) a natural disaster as determined by the secretary of agriculture;
- (3) a disaster as determined by the administrator of the small business administration; or
- (4) a tornado, storm, flood, earthquake, landslide, explosion, fire or similar catastrophe, as a result of which a local emergency is declared pursuant to section 12.29.

(b) "disaster or emergency area" means an area

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(1) in which the president of the United States, the secretary of agriculture, or the administrator of the small business administration has determined that a disaster exists pursuant to federal law or in which a local emergency has been declared pursuant to section 12.29; and

(2) for which an application by the local unit of government requesting property tax relief under this section has been received by the governor and approved by the executive council.

(c) "homestead property" means homestead dwelling that is classified as class ~~1a~~, ~~1b~~ 1, or 2a property or a manufactured home or sectional home used as a homestead and taxed pursuant to section 274.19, subdivision 8, paragraph (b), (c), or (d).

Sec. 12. Minnesota Statutes 1986, section 273.123, subdivision 4, is amended to read:

Subd. 4. **STATE REIMBURSEMENT.** The county auditor shall calculate the tax on the property described in subdivision 2 based on the assessment made on January 2 of the year in which the disaster or emergency occurred. The difference between the tax determined on the January 2 assessed value and the tax actually payable based on the reassessed value determined under subdivision 2 shall be reimbursed to each taxing jurisdiction in which the damaged property is located. The amount shall be certified by the county auditor and reported to the commissioner of revenue. The commissioner shall make the payments to the taxing jurisdictions containing the property at the time distributions are made pursuant to section ~~273.13~~, ~~subdivision 15a~~ 273.1394, in the same proportion that the ad valorem tax is distributed.

Sec. 13. Minnesota Statutes 1986, section 273.123, subdivision 5, is amended to read:

Subd. 5. **COMPUTATION OF CREDITS.** The amounts of any credits or tax relief which reduce the gross tax shall be computed upon the reassessed value determined under subdivision 2. Payment shall be made pursuant to section ~~273.13~~, ~~subdivision 15a~~ 273.1394. For purposes of the property tax refund, property taxes payable, as defined in section 290A.03, subdivision 13, and net property taxes payable, as defined in section 290A.04, subdivision 2d, shall be computed upon the reassessed value determined under subdivision 2.

Sec. 14. Minnesota Statutes 1986, section 273.123, subdivision 7, is amended to read:

Subd. 7. **LOCAL OPTION; OTHER PROPERTY.** The owner of homestead property not qualifying for an adjustment in valuation pursuant to subdivisions 1 to 5 or of nonhomestead property may receive a reduction in the amount of taxes payable for the year in which the destruction occurs on the homestead portion property if:

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(a) 50 percent or more of the homestead dwelling or other structure, as established by the county assessor, is unintentionally or accidentally destroyed and the homestead is uninhabitable or the other structure is not usable;

(b) the owner of the property makes written application to the county assessor as soon as practical after the damage has occurred; and

(c) the owner of the property makes written application to the county board, upon completion of the restoration of the destroyed structure.

The county board may grant a reduction in the amount of property tax which the owner must pay on the qualifying ~~home~~ property in the year of destruction. Any reduction in the amount of tax payable which is authorized by county board action shall be calculated based upon the number of months that the home is uninhabitable or the other structure is unusable. The amount of net tax due from the taxpayer shall be multiplied by a fraction, the numerator of which is the number of months the dwelling was occupied by that taxpayer, or the number of months the other structure was used by the taxpayer, and the denominator of which is 12. For purposes of this subdivision, if a structure is occupied or used for a fraction of a month, it is considered a month. "Net tax" is defined as the amount of tax after the subtraction of all of the state paid property tax credits. If application is made following payment of all property taxes due for the year of destruction, the amount of the reduction granted by the county board shall be refunded to the taxpayer by the county treasurer as soon as practical.

Any reductions or refunds approved by the county board shall not be subject to approval by the commissioner of revenue.

The county board may levy in the following year the amount of tax dollars lost to the county government as a result of the reductions granted pursuant to this subdivision. Any amount levied for this purpose shall be exempt from the levy limit provisions of sections 275.50 to 275.56.

Sec. 15. Minnesota Statutes 1986, section 273.124, subdivision 8, is amended to read:

Subd. 8. HOMESTEAD OWNED BY FAMILY FARM CORPORATION OR PARTNERSHIP. (a) Each family farm corporation and each partnership operating a family farm is entitled to ~~class 1b or~~ class 2a assessment for one homestead occupied by a shareholder or partner thereof who is residing on the land and actively engaged in farming of the land owned by the corporation or partnership. Homestead treatment applies even if legal title to the property is in the name of the corporation or partnership and not in the name of the person residing on it. "Family farm corporation" and "family farm" have the meanings given in section 500.24.

(b) In addition to property specified in paragraph (a), any other residences owned by corporations or partnerships described in paragraph (a) which are

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located on agricultural land and occupied as homesteads by shareholders or partners who are actively engaged in farming on behalf of the corporation or partnership must also be assessed as ~~class 1b~~ or class 2a property, but the property eligible is limited to the residence itself and as much of the land surrounding the homestead, not exceeding one acre, as is reasonably necessary for the use of the dwelling as a home, and does not include any other structures that may be located on it.

Sec. 16. Minnesota Statutes 1986, section 273.124, subdivision 11, is amended to read:

Subd. 11. **LIMITATION ON HOMESTEAD CLASSIFICATION.** If the assessor has classified a property as both homestead and nonhomestead, the greater of the value attributable to the portion of the property classified as class ~~1a, 1b,~~ 1 or class 2a or the value of the first tier of assessment percentages provided under section 273.13, subdivision 22, ~~paragraph (a) or (b)~~ or subdivision 23, paragraph (a) is entitled to assessment as a homestead treatment under section 273.13, subdivision 22 or 23, and the homestead exemption under section 275.081, subdivision 2. The limitation in this subdivision does not apply to buildings containing fewer than four residential units or to a single rented or leased dwelling unit located within or attached to a private garage or similar structure owned by the owner of a homestead and located on the premises of that homestead.

If the assessor has classified a property as both homestead and nonhomestead, ~~the homestead credit provided in section 273.13, subdivisions 22 and 23, and the reductions in tax provided under sections 273.135 and 273.1391~~ apply to the value of both the homestead and the nonhomestead portions of the property.

Sec. 17. Minnesota Statutes 1986, section 273.124, subdivision 13, is amended to read:

Subd. 13. **SOCIAL SECURITY NUMBER REQUIRED FOR HOMESTEAD APPLICATION.** Beginning with the January 2, 1987, assessment, every property owner applying for homestead classification must furnish to the county assessor that owner's social security or taxpayer identification number. If the social security or taxpayer identification number is not provided, the county assessor shall classify the property as nonhomestead. The social security numbers of the property owners are private data on individuals as defined by section 13.02, subdivision 12, but, notwithstanding that section, the private data may be disclosed to the commissioner of revenue.

At the request of the commissioner, each county must give the commissioner a listing that includes the name and social security or taxpayer identification number of each property owner applying for homestead classification.

If, in comparing the lists supplied by the counties, the commissioner finds that a property owner is claiming more than one homestead, the commissioner

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shall notify the appropriate counties. Within 90 days of the notification, the county assessor shall investigate to determine if the homestead classification was properly claimed. If the property owner does not qualify, the county assessor shall notify the county auditor who will determine the amount of homestead benefits that had been improperly allowed. For the purpose of this section, "homestead benefits" means the tax reduction resulting from the homestead credit exemption amount provided under section 275.081, taconite homestead credit, supplemental homestead credit, and the tax reduction resulting from agricultural school credit which is in excess of the credit which would be allowed if the property had been classified as nonhomestead property exemption amount provided in section 275.081. The county auditor shall send a notice to the owners of the affected property, demanding reimbursement of the homestead benefits plus a penalty equal to 25 percent of the homestead benefits. The property owners may appeal the county's determination by filing a notice of appeal with the Minnesota tax court within 60 days of the date of the notice from the county.

If the amount of homestead benefits and penalty is not paid within 60 days, and if no appeal has been filed, the county auditor shall certify the amount to the succeeding year's tax list to be collected as part of the property taxes.

Any amount of homestead benefits recovered from the property owner must be transmitted to the commissioner by the end of each calendar quarter. Any amount recovered attributable to taconite homestead credit shall be transmitted to the St. Louis county auditor to be deposited in the taconite property tax relief account. The amount of penalty collected must be deposited in the county general fund.

The commissioner will provide suggested homestead applications to each county. If a property owner has applied for more than one homestead and the county assessors cannot determine which property should be classified as homestead, the county assessors will refer the information to the commissioner. The commissioner shall make the determination and notify the counties within 60 days.

In addition to lists of homestead properties, the commissioner may ask the counties to furnish lists of all properties and the record owners.

Sec. 18. Minnesota Statutes 1986, section 273.13, subdivision 15a, is amended to read:

Subd. 15a. **GENERAL FUND, REPLACEMENT OF REVENUE.** (1) Payment from the general fund shall be made, as provided herein, for the purpose of replacing revenue lost as a result of the reduction of property taxes provided in ~~subdivisions 22 and~~ subdivision 23.

(2) Each county auditor shall certify, not later than May 1 of each year to the commissioner of revenue the amount of reduction resulting from ~~subdivisions 22 and~~ subdivision 23 in the auditor's county. This certification shall be

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submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under the provisions of section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner of revenue shall review such certifications to determine their accuracy. The commissioner may make such changes in the certification as are deemed necessary or return a certification to the county auditor for corrections.

(3) Based on current year tax data reported in the abstracts of tax lists, the commissioner of revenue shall annually determine the taxing district distribution of the amounts certified under clause (2). The commissioner of revenue shall pay to each taxing district, other than school districts, its total payment for the year in equal installments on or before July 15 and December 15 of each year.

Sec. 19. Minnesota Statutes 1986, section 273.13, subdivision 22, is amended to read:

Subd. 22. **CLASS 1.** (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class ~~1a~~ 1 property must be determined based upon the value of the house, garage, and land.

The first ~~\$64,000~~ \$68,000 of market value of class ~~1a~~ 1 property must be assessed at ~~18~~ 37 percent of its market value. The homestead value of class ~~1a~~ 1 property that exceeds ~~\$64,000~~ \$68,000 must be assessed at ~~28~~ 60 percent of its value.

(b) ~~Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by~~

(1) ~~any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or~~

(2) ~~any person, hereinafter referred to as "veteran," who:~~

(i) ~~served in the active military or naval service of the United States; and~~

(ii) ~~is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and~~

(iii) ~~with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability; or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or~~

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- (3) any person who:
- (i) is permanently and totally disabled and
 - (ii) receives 90 percent or more of total income from
 - (A) aid from any state as a result of that disability; or
 - (B) supplemental security income for the disabled; or
 - (C) workers' compensation based on a finding of total and permanent disability; or
 - (D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or
 - (E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or
 - (F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to clause (1) only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of human services shall provide a copy of the certification to the commissioner of revenue.

Class 1b property is valued and assessed as follows: in the case of agricultural land, including a manufactured home, used for a homestead, the first \$32,000 of market value shall be valued and assessed at five percent; the next \$32,000 of market value shall be valued and assessed at 14 percent; and the remaining market value shall be valued and assessed at 18 percent; and in the case of all other real estate and manufactured homes, the first \$32,000 of market value shall be valued and assessed at five percent; the next \$32,000 of market value shall be valued and assessed at 18 percent; and the remaining market value shall be valued and assessed at 28 percent. In the case of agricultural land including a manufactured home used for purposes of a homestead, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 percent rates; and for all other real estate and manufactured homes, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 percent rates. Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income.

(e) Class 1e property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recrea-

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tional purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner. It must be assessed at 12 percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

(d) The tax to be paid on class 1a or class 1b property, less any reduction received pursuant to sections 273.123 and 473H.10, shall be reduced by 54 percent of the tax imposed on the first \$68,000 of market value. The amount of the reduction shall not exceed \$700.

Sec. 20. Minnesota Statutes 1986, section 273.13, subdivision 23, is amended to read:

Subd. 23. CLASS 2. (a) Class 2a property is agricultural land that is homesteaded, together with the house and garage. The first ~~\$64,000~~ \$66,000 of market value of an agricultural homestead is valued at ~~14~~ 30 percent. The remaining value of class 2a property is assessed at ~~18~~ 40 percent of market value.

Noncontiguous land shall constitute class 2a only if the homestead is classified as class 2a and the detached land is located in the same township or city or not farther than two townships or cities or combination thereof from the homestead.

Agricultural land used for purposes of a homestead and actively farmed by a person holding a vested remainder interest in it must be classified class 2a. If agricultural land is classified class 2a, any other dwellings on the land used for purposes of a homestead by persons holding vested remainder interests who are actively engaged in farming the property, and up to one acre of the land surrounding each homestead and reasonably necessary for the use of the dwelling as a home, must also be assessed class 2a and is entitled to the homestead credit.

The tax to be paid on class 2a property, less any reduction received pursuant to sections ~~124.2137~~, 273.123, and 473H.10 shall be reduced by ~~54~~ 52 percent of the tax. The amount of the reduction shall not exceed \$700.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products. It is assessed at ~~18~~ percent of market value.

(e) ~~Class 2e property is;~~ and (2) real estate that is nonhomestead agricultural land. ~~It Class 2b property~~ is assessed at ~~18~~ 40 percent of market value.

Agricultural land as used in this section shall mean contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land and land included in federal farm programs.

Real estate of less than ten acres used principally for raising poultry, live-

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stock, fruit, vegetables or other agricultural products, shall be considered as agricultural land, if it is not used primarily for residential purposes.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

Sec. 21. Minnesota Statutes 1986, section 273.13, subdivision 24, is amended to read:

Subd. 24. **CLASS 3.** (a) Commercial and industrial property is class 3a. It is assessed at ~~28~~ 60 percent of the first ~~\$60,000~~ \$80,000 of market value and ~~43~~ 96 percent ~~for~~ of the market value over ~~\$60,000~~ \$80,000. In the case of state-assessed commercial or industrial property owned by one person or entity, only one parcel may qualify for the ~~28~~ 60 percent assessment. In the case of other commercial or industrial property owned by one person or entity, only one parcel in each county may qualify for the ~~28~~ 60 percent assessment.

(b) Employment property defined in section 273.1313, during the period provided in section 273.1313, shall constitute class 3b and shall be valued and assessed at ~~20~~ 45 percent of the first \$50,000 of market value and ~~21.5~~ 50 percent of the remainder, except that for employment property located in an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), the first ~~\$60,000~~ \$80,000 of market value shall be valued and assessed at ~~28~~ 60 percent and the remainder shall be assessed and valued at ~~38.5~~ 86 percent, unless the governing body of the city designated as an enterprise zone determines that a specific parcel shall be assessed pursuant to the first clause of this sentence. The governing body may provide for assessment under the first clause of the preceding sentence only for property which is located in an area which has been designated by the governing body for the receipt of tax reductions authorized by section 273.1314, subdivision 9, paragraph (a).

(c) ~~Real property which is not improved with a structure and which is not utilized as part of a commercial or industrial activity shall constitute class 3c and shall be valued and assessed at 40 percent of market value.~~

Sec. 22. Minnesota Statutes 1986, section 273.13, subdivision 25, is amended to read:

Subd. 25. **CLASS 4.** (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property is assessed at ~~34~~ 70 percent of market value.

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(b) Class 4b is tools, implements, and machinery of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures. Class 4b property is assessed at 33-1/3 percent of market value.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, recreational, and homesteads;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is used exclusively by a sorority or fraternity organization for housing;

(3) manufactured homes not classified under any other provision; and

(4) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4b property is assessed at 60 percent for taxes levied in 1988, payable in 1989 and thereafter.

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter.

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For all properties described in clauses (1) and (2) and in paragraph (d), clause (2), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

(3) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(4) except as provided in paragraph (d), clause (1), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 200 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property also includes the remainder of class 4d resorts; and

(5) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is

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exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1986. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property is assessed at 50 percent.

(d) Class 4d property includes:

(1) commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner. The area of the property that is classified as class 4d must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore;

(2) any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property must be assessed under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The 30 percent and 50 percent assessment ratios apply to the properties described in paragraph (c), clauses (1) and (2) and this clause, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by

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a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity; and

(3) the first \$34,000 of market value of real estate or manufactured homes used for the purposes of a homestead by

(i) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(ii) any person, hereinafter referred to as "veteran," who:

(A) served in the active military or naval service of the United States; and

(B) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(C) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(iii) any person who:

(A) is permanently and totally disabled and

(B) receives 90 percent or more of total income from

(1) aid from any state as a result of that disability; or

(2) supplemental security income for the disabled; or

(3) workers' compensation based on a finding of total and permanent disability; or

(4) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(5) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(6) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to this clause only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of

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human services shall provide a copy of the certification to the commissioner of revenue.

The remaining value of class 4(d)(3) property in excess of \$34,000 shall be valued and assessed under subdivision 22 or 23, as appropriate, provided that only the value in excess of \$34,000 but not in excess of \$68,000 is assessed at the rate provided for the first tier of value in subdivision 22 or only the value in excess of \$34,000 but not in excess of \$66,000 is assessed at the rate provided for the first tier of value in subdivision 23.

Class 4d property is assessed at 30 percent of market value.

Sec. 23. Minnesota Statutes 1986, section 273.13, subdivision 31, is amended to read:

Subd. 31. ~~CLASS 40 5.~~ All property not included in any other class is class ~~40 5~~ property and is assessed at ~~43 96~~ percent of market value.

Sec. 24. Minnesota Statutes 1986, section 273.1313, subdivision 3, is amended to read:

Subd. 3. **CLASSIFICATION.** Property shall be classified as employment property and assessed as provided for class ~~4d 3b~~ property in section 273.13, subdivision 24, paragraph (b), for taxes levied in the year in which the classification is approved and for the four succeeding years after the approval. If the classification is revoked, the revocation is effective for taxes levied in the next year after revocation.

Sec. 25. Minnesota Statutes 1986, section 273.135, subdivision 2, is amended to read:

Subd. 2. The amount of the reduction authorized by subdivision 1 shall be

(a) In the case of property located within the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 66 percent of the net tax up to the ~~taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint,~~ provided that the reduction shall not exceed the maximum amounts specified in clause (c).

(b) In the case of property located within the boundaries of a school district which qualifies as a tax relief area but which is outside the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 57 percent of the net tax up to the ~~taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint,~~ provided that the reduction shall not exceed the maximum amounts specified in clause (c).

(e) ~~(1) The maximum reduction of the net tax up to the taconite breakpoint is \$225.40 on property described in clause (a) and \$200.10 on property described~~

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in clause (b); for taxes payable in 1985. These maximum amounts shall increase by \$15 times the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

(2) The total maximum reduction of the net tax on property described in clause (a) is \$490 for taxes payable in 1985. The total maximum reduction for the net tax on property described in clause (b) is \$435 for taxes payable in 1985. These maximum amounts shall increase by \$15 per year for taxes payable in 1986 and thereafter.

For the purposes of this subdivision, "net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23; "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar; and "homestead credit equivalency percentage" means a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22 before application of the credit payable under this section.

Sec. 26. Minnesota Statutes 1986, section 273.1391, subdivision 2, is amended to read:

Subd. 2. The amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134 lies within such county, 57 percent of the net tax up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint on qualified property located in the school district that does not meet the qualifications of section 273.134, provided that the amount of said reduction shall not exceed the maximum amounts specified in clause (c). The reduction provided by this clause shall only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a school district in a county containing a city of the first class and a qualifying municipality, but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a qualifying municipality, 57 percent of the net tax up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint, but not to exceed the maximums specified in clause (c).

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(c) (1) The maximum reduction of the net tax up to the taconite breakpoint is \$200.10 for taxes payable in 1985. This maximum amount shall increase by \$15 multiplied by the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

(2) The total maximum reduction of the net tax is \$435 for taxes payable in 1985. This total maximum amount shall increase by \$15 per year for taxes payable in 1986 and thereafter.

For the purposes of this subdivision, "net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23; "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar; and "homestead credit equivalency percentage" means a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22 before application of the credit under this section.

Sec. 27. Minnesota Statutes 1986, section 273.1392, is amended to read:

273.1392 PAYMENT; AIDS TO SCHOOL DISTRICTS.

The amounts of ~~homestead credit under section 273.13, subdivisions 22 and 23; wetlands credit and reimbursement under section 273.115; native prairie credit and reimbursement under section 273.116; disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; homestead credit replacement aid under section 273.1394; agricultural credit replacement aid under section 273.1395; and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.~~

Sec. 28. Minnesota Statutes 1986, section 273.1393, is amended to read:

273.1393 COMPUTATION OF NET PROPERTY TAXES.

Notwithstanding any other provisions to the contrary, "net" property taxes are determined by subtracting the credits in the order listed from the gross tax:

- (1) disaster credit as provided in section 273.123;
- (2) wetlands credit as provided in section 273.115;
- (3) native prairie credit as provided in section 273.116;
- (4) powerline credit as provided in section 273.42;
- (5) (3) agricultural preserves credit as provided in section 473H.10;
- (6) (4) enterprise zone credit as provided in section 273.1314;
- (7) state school agricultural credit as provided in section ~~124.2137;~~

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~~(8) (5) state paid homestead credit as provided in section 273.13, subdivisions 22 and subdivision 23;~~

~~(9) (6) taconite homestead credit as provided in section 273.135;~~

~~(10) (7) supplemental homestead credit as provided in section 273.1391.~~

The combination of all property tax credits must not exceed the gross tax amount.

Sec. 29. [273.1394] HOMESTEAD CREDIT REPLACEMENT AID.

Subdivision 1. PAYMENT. There shall be paid to each taxing jurisdiction in 1989 and subsequent years a homestead credit replacement aid, determined as provided in this section.

Subd. 2. COMPUTATION. (a) The initial aid will be computed as follows:

(1) for aids paid in 1989 only, determine the amount of homestead credit reimbursement that would have been paid to the taxing jurisdiction in 1988 under Minnesota Statutes 1986, section 273.13, subdivision 15a, on nonagricultural homesteads in 1988 if the homestead credit percentage provided in Minnesota Statutes 1986, section 273.13, subdivision 22, had been determined by using a rate of 52 percent and as if there had been no \$700 maximum;

(2) for aids payable in 1990 and subsequent years, the initial aid is the amount paid in the previous year; and

(3) for aids paid in 1988 only, the initial amount determined under clause (1) for all taxing jurisdictions levying within each school district shall be reapportioned among all taxing jurisdictions in proportion to their share of the total levy by all taxing jurisdictions in payable 1988.

(b) The amount determined in paragraph (a) shall be multiplied by a fraction, the numerator of which is the ratio of the estimated assessed value of the total homestead base value of nonagricultural homesteads in the taxing jurisdiction for the current assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the current assessment year, and the denominator of which is the ratio of the estimated assessed value of the total homestead base value of nonagricultural homesteads in the taxing jurisdiction for the previous assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the previous assessment year. The county auditor shall certify the estimated assessed value of the total homestead base value and the total homestead exemption amount, of nonagricultural homesteads and the estimated assessed value of all property in the taxing jurisdiction as of July 15 to the commissioner of revenue.

(c) for aids paid in 1989 and thereafter, the amounts determined under paragraph (b) shall be adjusted as follows:

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(i) for cities, towns, and special taxing districts, multiply the amount by one plus the implicit price deflator as defined in section 275.50, subdivision 8;

(ii) for counties, multiply the amount by the following factors: first, by the ratio of the total county levy, except the sum of the levy for income maintenance not including administrative costs plus the levy for social services, to the total county levy multiplied by one plus the implicit price deflator as defined in section 275.50, subdivision 8; second, by the ratio of the sum of the levy for income maintenance, not including administrative costs plus the social service levy of the county to the total county levy multiplied by the estimated increase in county social service costs and income maintenance program costs, not including income maintenance administrative costs; as used in this subclause (ii), "levy" means the levy for taxes payable in the year preceding the year in which the aid is paid;

(iii) for school districts, multiply the amount by the ratio of the school district's levy limit, exclusive of any referendum levy authorized under section 124A.03, subdivision 2, for taxes payable in the preceding year to its levy limit for taxes payable in the year in which the aid is paid exclusive of any such referendum levy.

The county must certify actual social service and income maintenance levies to the commissioner of revenue, who will adjust the final aid amounts paid under this section and section 273.1395 accordingly.

Subd. 3. PAYMENT. The commissioner shall certify and pay the home-
stead credit replacement aid at the times provided in sections 477A.014 and
477A.015 for certification and payment of local government aid to other taxing
jurisdictions. Aids to school districts must be certified to the commissioner of
education and paid pursuant to section 273.1392. Payment shall not be made to
any taxing jurisdiction that has ceased to levy a property tax.

Subd. 4. APPROPRIATION. An amount sufficient to make the payments
required in this section is annually appropriated from the general fund to the
commissioner of revenue.

Sec. 30. [273.1395] AGRICULTURAL CREDIT REPLACEMENT AID.

Subdivision 1. PAYMENT. There shall be paid to each taxing jurisdiction
in 1989 and subsequent years an agricultural credit replacement aid determined
as provided in this section.

Subd. 2. COMPUTATION. (a) The initial aid will be computed as follows:

(1) The amount of aid that would have been paid to a taxing jurisdiction in
1988 pursuant to Minnesota Statutes 1986, section 124.2137, if the aid paid to
school districts under that provision had been distributed among all taxing
jurisdictions containing property with respect to which the credit had been paid
in proportion to their share of the total levy by all taxing jurisdictions in payable
1988. For aid payable in 1990 and subsequent years, the initial aid is the
amount paid in the previous year.

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(2) An amount determined in clause (1) shall be multiplied by a fraction, the numerator of which is the ratio of the estimated assessed value of property qualifying for the agricultural credit under Minnesota Statutes 1986, section 124.2137, in the taxing jurisdiction for the current assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the current assessment year, and the denominator of which is the ratio of the estimated assessed value of property qualifying for the agricultural credit under Minnesota Statutes 1986, section 124.2137, in the taxing jurisdiction for the previous assessment year to the estimated total assessed value of all property within the taxing jurisdiction for the previous assessment year. The county auditor shall certify the estimated assessed value of property qualifying for the agricultural credit under Minnesota Statutes 1986, section 124.2137, and the estimated assessed value of all property in the taxing jurisdiction as of July 15 to the commissioner of revenue.

(b) For aids paid in 1989 and subsequent years, the amounts determined in paragraph (a) would be adjusted according to the formula provided in section 273.1394, subdivision 2, paragraph (c).

Subd. 3. CERTIFICATION AND PAYMENT. The commissioner shall certify and pay the agricultural credit replacement aid at the times provided in sections 477A.014 and 477A.015 for certification and payment of local government aid to other taxing jurisdictions. Aids to school districts must be certified to the commissioner of education and paid pursuant to section 273.1392. Payment shall not be made to any special taxing district that has ceased to levy a property tax.

Subd. 4. APPROPRIATION. An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 31. [273.1396] TAX BASE ADJUSTMENT AID.

Subdivision 1. ADJUSTMENT. There shall be added to or subtracted from the aid paid to each taxing jurisdiction under sections 273.1394, 273.1395, 477A.015, and chapter 124A an amount determined under this section.

Subd. 2. 1989 COMPUTATION. The amount shall be computed for aids paid to each taxing jurisdiction in 1989 as follows:

(a) multiply the assessment ratios provided in section 273.13, for taxes payable in 1989 by 45 percent and redetermine the assessed value of the taxing jurisdiction for taxes payable in 1988 using the resulting ratios. Any recomputed captured assessed value of a tax increment district as defined in section 273.73 would not be included in the assessed value of the taxing jurisdiction. The recomputed assessed values would not be adjusted to reflect any change in the effects of chapter 473F or in assessed value pursuant to section 273.425 as a result of the recomputation but would be adjusted for those values as originally certified;

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(b) subtract the amount determined in paragraph (a) from the actual taxable assessed value of the taxing jurisdiction for taxes payable in 1988, and multiply that amount by the actual mill rate of the taxing jurisdiction for taxes payable in 1988;

(c) if the amount determined in paragraph (b) is positive, it shall be added to the taxing jurisdiction's homestead credit replacement aid under section 273.1394 or if no homestead credit replacement aid is payable, granted as an additional aid. If the amount determined in paragraph (b) is negative, it shall be subtracted from the sum of the taxing jurisdiction's homestead credit replacement aid under section 273.1394, and agricultural credit replacement aid under section 273.1394. If the amount determined in paragraph (b) is negative and is not totally offset against the homestead and agricultural credit reimbursement aid then the remainder shall be subtracted from a taxing jurisdiction's local government aid paid under section 477A.015 and school aids paid under chapter 124A.

Subd. 3. SUBSEQUENT COMPUTATIONS. For aids paid under sections 273.1394 and 273.1395 in 1990 and subsequent years, the amount to be added or subtracted under this section shall be equal to the amount determined under subdivision 2.

Subd. 4. APPROPRIATION. An amount sufficient to make the payments required in this section is annually appropriated from the general fund to the commissioner of revenue.

Sec. 32. Minnesota Statutes 1986, section 273.165, subdivision 2, is amended to read:

Subd. 2. **IRON ORE.** Unmined iron ore included in class 9 5 must be assessed with and as a part of the real estate in which it is located, but at the rate established in section 273.13, subdivision 30. The real estate in which iron ore is located, other than the ore, must be classified and assessed in accordance with the provisions of the appropriate classes. In assessing any tract or lot of real estate in which iron ore is known to exist, the assessable value of the ore exclusive of the land in which it is located, and the assessable value of the land exclusive of the ore must be determined and set down separately and the aggregate of the two must be assessed against the tract or lot.

Sec. 33. Minnesota Statutes 1986, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69 kv and above located in an unorganized township, ~~and distribution lines,~~ and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before the 15th day of November, shall certify to the auditor of each county in which such property is located the

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amount of the assessment made against each company and person owning such property.

Sec. 34. Minnesota Statutes 1986, section 273.38, is amended to read:

273.38 PERCENTAGE OF ASSESSMENTS; EXCEPTIONS.

The commissioner of revenue shall assess distribution lines, and the attachments and appurtenances thereto, used primarily for supplying electricity to farmers at retail, which shall be taxed at the average rate of taxes levied for all purposes throughout the county, and which shall be entered, certified and credited as provided in section 273.42. It is further provided that The distribution lines and the attachments and appurtenances thereto of cooperative associations organized under the provisions of Laws 1923, chapter 326, and laws amendatory thereof and supplemental thereto, and engaged in the electrical heat, light and power business, upon a mutual, nonprofit and cooperative plan, shall be assessed and taxed as provided in sections 273.40 and 273.41.

Sec. 35. Minnesota Statutes 1986, section 273.42, subdivision 2, is amended to read:

Subd. 2. Owners of land defined as class ~~1a, 1b, 1c, 2a, 2c, 4a, 5a, or 6a,~~ pursuant to that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 listed on records of the county auditor or county treasurer over which runs a high voltage transmission line as defined in section 116C.52, subdivision 3, except a high voltage transmission line the construction of which was commenced prior to July 1, 1974, shall receive a property tax credit in an amount determined by multiplying a fraction, the numerator of which is the length of high voltage transmission line which runs over that parcel and the denominator of which is the total length of that particular line running over all property within the city or township by ten percent of the transmission line tax revenue derived from the tax on that portion of the line within the city or township pursuant to section 273.36. In the case of property owners in unorganized townships, the property tax credit shall be determined by multiplying a fraction, the numerator of which is the length of the qualifying high voltage transmission line which runs over the parcel and the denominator of which is the total length of the qualifying high voltage transmission line running over all property within all the unorganized townships within the county, by the total utility property tax credit fund amount available within the county for that year pursuant to subdivision 1. Where a right-of-way width is shared by more than one property owner, the numerator shall be adjusted by multiplying the length of line on the parcel by the proportion of the total width on the parcel owned by that property owner. The amount of credit for which the property qualifies shall not exceed 20 percent of the total gross tax on the parcel prior to deduction of the state paid agricultural credit and the state paid homestead credit, provided that, if the property containing the right-of-way is included in a parcel which

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exceeds 40 acres, the total gross tax on the parcel shall be multiplied by a fraction, the numerator of which is the sum of the number of acres in each quarter-quarter section or portion thereof which contains a right-of-way and the denominator of which is the total number of acres in the parcel set forth on the tax statement, and the maximum credit shall be 20 percent of the product of that computation, prior to deduction of those credits. The auditor of the county in which the affected parcel is located shall calculate the amount of the credit due for each parcel and transmit that information to the county treasurer. The county auditor, in computing the ~~credits~~ credit received pursuant to ~~sections 273.13 and section~~ section 273.135, shall reduce the gross tax by the amount of the credit received pursuant to this section, unless the amount of the credit would be less than \$10.

If, after the county auditor has computed the credit to those qualifying property owners in unorganized townships, there is money remaining in the utility property tax credit fund, then that excess amount in the fund shall be returned to the general school fund of the county.

Sec. 36. Minnesota Statutes 1986, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, and towns, and school districts shall be certified by the proper authorities to the county auditor on or before October 10 in each year. The taxes of a school district must be certified to the commissioner of education by October 10 in each year. If a city, town, county, school district or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue, or the commissioner of education in the case of a school district, before October 10 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy.

Sec. 37. **[275.081] FARM AND HOMESTEAD VALUE EXEMPTION.**

Subdivision 1. PROCEDURE. After certification of assessed valuations pursuant to section 274.04 and adjustments pursuant to sections 270.13, 274.01, 274.08, 274.09, 274.12, 274.16, and 274.17, the county auditor shall reduce the assessed value of each farm and homestead according to this section.

Subd. 2. NONAGRICULTURAL HOMESTEADS. The assessed value of a nonagricultural homestead is reduced by 52 percent, but not to exceed 52 percent of the assessed value of a class 1 homestead having an estimated market value of \$68,000.

Subd. 3. AGRICULTURAL HOMESTEADS. The assessed value of the first 320 acres of property classified as an agricultural homestead is reduced by 36 percent of the assessed value of the first 320 acres less the value of the homestead dwelling, garage, and one acre on which the dwelling is situated. The

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assessed value of the property in excess of 320 acres is reduced by 26 percent of its assessed value.

Subd. 4. NONHOMESTEAD FARMS AND TIMBERLAND. The assessed value of a nonhomestead farm, excluding the value of any dwelling, garage, and one acre surrounding it, is reduced by 26 percent of its assessed value. For purposes of this section, nonhomestead farms shall include timberlands.

Subd. 5. SEASONAL RESIDENTIAL RECREATIONAL PROPERTY. The assessed value of noncommercial seasonal residential recreational property is reduced by 15 percent, but not to exceed 15 percent of the assessed value of a noncommercial seasonal residential recreational property with \$31,000 of assessed value.

Sec. 38. [275.082] COMPUTATION OF TAX ON PARCELS.

Subdivision 1. NONAGRICULTURAL HOMESTEADS. For use in taxing nonagricultural homesteads, a mill rate shall be computed for each taxing jurisdiction based on the assessed value of properties as reduced under section 275.081. The homestead credit amount for each nonagricultural homestead shall be the exemption amount computed under section 275.081, multiplied by the total mill rate, and the gross tax is the sum of that credit amount plus the net tax determined by multiplying the mill rate by the assessed value of the property after subtraction of the exemption amount.

Subd. 2. AGRICULTURAL AND OTHER PROPERTY. For use in taxing agricultural homesteads, nonhomestead agricultural land, timberland, and seasonal recreational property, the mill rate as computed under subdivision 1 shall be applied to the assessed value of the property after deduction of the exemption amount computed under section 275.081. From that amount of tax on agricultural homesteads there shall be deducted a homestead credit in an amount equal to 52 percent of the tax on the property, less any reduction received under sections 273.123 and 473H.10, but not to exceed \$700.

Sec. 39. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 22. AID ADJUSTMENT. If a school district's aids pursuant to chapter 124A or sections 273.1394 and 273.1395 for the school year beginning following the levy year are reduced pursuant to section 273.1396, then the district's levy limit shall be increased by the amount of the reduction. If the district's aids are increased pursuant to section 273.1396, then its levy limit shall be reduced by the amount of the increase.

Sec. 40. Minnesota Statutes 1986, section 275.50, subdivision 2, is amended to read:

Subd. 2. GOVERNMENTAL SUBDIVISION. (a) "Governmental subdivision" means a county, home rule charter city, ~~or statutory city, except a home~~

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rule charter or statutory city that has a population of less than 5,000 according to the most recent federal census.

(b) "Governmental subdivision" also includes any ~~city or~~ town that receives a distribution from the taconite municipal aid account in the levy year.

Sec. 41. Minnesota Statutes 1986, section 275.51, subdivision 3h, is amended to read:

Subd. 3h. **ADJUSTED LEVY LIMIT BASE.** For taxes levied in ~~1985 and thereafter 1988 and thereafter~~, the adjusted levy limit base is equal to the levy limit base computed pursuant to article 5, section 12, or subdivision 3f, increased by:

(a) a percentage equal to the percentage growth in the implicit price deflator, or ~~five~~ three percent, whichever is lesser;

(b) a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived pursuant to subdivision 6;

(c) one-half of the amount levied as a special levy in the previous year for paying the costs of municipal services provided to new private industrial and nonresidential commercial development pursuant to section 275.50, subdivision 5, clause (m), if the special levy is discontinued;

(d) the amount of any permanent increase in the levy limit base approved at a general or special election held during the 12-month period ending September 30 of the levy year, pursuant to section 275.58, subdivisions 1 and 2; and

(e) the amount, if known, equal to the decrease in federal revenue sharing allotment from the levy year to the year in which the levy is payable; otherwise the amount equal to the decrease in federal revenue sharing allotment in the levy year as compared to the previous year if the levy base for the previous year has not been adjusted for a decrease in federal revenue sharing allotment.

Sec. 42. Minnesota Statutes 1986, section 276.04, is amended to read:

276.04 NOTICE OF RATES; PROPERTY TAX STATEMENTS.

On receiving the tax lists from the county auditor, the county treasurer shall, if directed by the county board, give three weeks' published notice in a newspaper specifying the rates of taxation for all general purposes and the amounts raised for each specific purpose. The treasurer shall, whether or not directed by the county board, cause to be printed on all tax statements, or on an attachment, a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district shall be separately stated but the amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar

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amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in bold face print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT." The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property. The county treasurer shall mail to taxpayers statements of their personal property taxes due, such statements to be mailed not later than February 15 (except in the case of manufactured homes and sectional structures taxed as personal property), statements of the real property taxes due shall be mailed not later than January 31; provided, that the validity of the tax shall not be affected by failure of the treasurer to mail such statement. The taxpayer is defined as the owner who is responsible for the payment of the tax. Such real and personal property tax statements shall contain the market value, as defined in section 272.03, subdivision 8, used in determining the tax. The statement shall show the amount attributable to the decrease in tax under section 275.082 attributable to Minnesota Statutes 1986, section 124.2137 as "state paid agricultural credit amount" and the amount attributable to the decrease in tax under section 275.082 attributable to Minnesota Statutes 1986, section 273.13, subdivisions 22 and 23 as "state paid homestead credit amount." If so directed by the county board, the treasurer shall visit places in the county as the treasurer deems expedient for the purpose of receiving taxes and the county board is authorized to pay the expenses of such visits and of preparing duplicate tax lists. Failure to mail the tax statement shall not be deemed a material defect to affect the validity of any judgment and sale for delinquent taxes.

Sec. 43. Minnesota Statutes 1986, section 279.01, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, on May 16, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of seven percent on nonhomestead property, except that this penalty shall not accrue until June 1 of each year on commercial use real property used for seasonal residential recreational purposes and classified as class ~~4e~~ 4d or ~~4a~~ 4c, and on other commercial use real property classified as class 3a, provided that over 60 percent of the gross income earned by the enterprise on the class 3a property is earned during the months of May, June, July, and August. Any property owner of such class 3a property who pays the first half of the tax due on the property after May 15 and before June 1 shall attach an affidavit to the payment attesting to compliance with the income provision of this subdivision. Thereafter, for both homestead and nonhomestead property, on the 16th day of each month, up to and including October 16

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following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes. When the taxes against any tract or lot exceed \$50, one-half thereof may be paid prior to May 16; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to October 16 following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on nonhomestead property. Thereafter, for homestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for nonhomestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of four percent for each month shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to May 16, the same may be paid at any time prior to October 16, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until October 16 following; provided, also, that the same may be paid in installments as follows: One-fourth prior to March 16; one-fourth prior to May 16; one-fourth prior to August 16; and the remaining one-fourth prior to October 16, subject to the aforesaid penalties. Where the taxes delinquent after October 16 against any tract or parcel exceed \$100, upon resolution of the county board, they may be paid in installments of not less than 25 percent thereof, together with all accrued penalties and costs, up to the next tax judgment sale, and after such payment, penalties, interest, and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver or countersign any receipt for any such taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such penalties.

Sec. 44. Minnesota Statutes 1986, section 279.06, is amended to read:

279.06 COPY OF LIST AND NOTICE.

Within five days after the filing of such list, the court administrator shall return a copy thereof to the county auditor, with a notice prepared and signed by the court administrator, and attached thereto, which may be substantially in the following form:

State of Minnesota)
) ss.
County of)

District Court
..... Judicial District.

The state of Minnesota, to all persons, companies, or corporations who have or claim any estate, right, title, or interest in, claim to, or lien upon, any of the several parcels of land described in the list hereto attached:

The list of taxes and penalties on real property for the county of remaining delinquent on the first Monday in January, 19....., has been filed in the office of the court administrator of the district court of said

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county, of which that hereto attached is a copy. Therefore, you, and each of you, are hereby required to file in the office of said court administrator, on or before the 20th day after the publication of this notice and list, your answer, in writing, setting forth any objection or defense you may have to the taxes, or any part thereof, upon any parcel of land described in the list, in, to, or on which you have or claim any estate, right, title, interest, claim, or lien, and, in default thereof, judgment will be entered against such parcel of land for the taxes on such list appearing against it, and for all penalties, interest, and costs. Based upon said judgment, the land shall be sold to the state of Minnesota on the second Monday in May, 19... The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is: (a) non-agricultural homesteaded land as defined in section 273.13, subdivision 22; (b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a); or (c) seasonal recreational land as defined in section 273.13, subdivision 22-25, paragraph (e) (d)(1) or ~~subdivision 27, paragraph (a) (c)(4)~~, in which event the period of redemption is five years from the date of sale to the state of Minnesota.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale.

Inquiries as to the proceedings set forth above can be made to the county auditor of county whose address is

(Signed)

Court Administrator of the District Court of the County

of

(Here insert list.)

The list referred to in the notice shall be substantially in the following form:

List of real property for the county of, on which taxes remain delinquent on the first Monday in January, 19...:

Town of (Fairfield),

Township (40), Range (20),

Names (and
Current Filed
Addresses) for
the Taxpayers
and Fee Owners
and in Addition
Those Parties
Who Have Filed
Their Addresses

Pursuant to
section 276.041

Subdivision of
Section

	Tax	
Parcel	Total Tax	
Number	and Penalty	

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

				\$	cts.
John Jones (825 Fremont Fairfield, MN 55000)	S.E. 1/4 of S.W. 1/4	10	23101		2.20
Bruce Smith (2059 Hand Fairfield, MN 55000) and Fairfield State Bank (100 Main Street Fairfield, MN 55000)	That part of N.E. 1/4 of S.W. 1/4 desc. as follows: Beg. at the S.E. corner of said N.E. 1/4 of S.W. 1/4; thence N. along the E. line of said N.E. 1/4 of S.W. 1/4 a distance of 600 ft.; thence W. parallel with the S. line of said N.E. 1/4 of S.W. 1/4 a distance of 600 ft.; thence S. parallel with said E. line a distance of 600 ft. to S. line of said N.E. 1/4 of S.W. 1/4; thence E. along said S. line a distance of 600 ft. to the point of beg.	21	33211		3.15

As to platted property, the form of heading shall conform to circumstances and be substantially in the following form:

City of (Smithtown)

Brown's Addition, or Subdivision

Names (and
Current Filed
Addresses) for
the Taxpayers
and Fee Owners
and in Addition
Those Parties
Who have Filed
Their Addresses
Pursuant to
section 276.041

	Lot	Block	Tax Parcel Number	Total Tax and Penalty \$ cts
John Jones (825 Fremont	15	9	58243	2.20

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Fairfield, MN 55000)				
Bruce Smith	16	9	58244	3.15
(2059 Hand				
Fairfield, MN 55000)				
and				
Fairfield				
State Bank				
(100 Main Street				
Fairfield, MN 55000)				

The names, descriptions, and figures employed in parentheses in the above forms are merely for purposes of illustration.

The name of the town, township, range or city, and addition or subdivision, as the case may be, shall be repeated at the head of each column of the printed lists as brought forward from the preceding column.

Errors in the list shall not be deemed to be a material defect to affect the validity of the judgment and sale.

Sec. 45. Minnesota Statutes 1986, section 281.17, is amended to read:

281.17 PERIOD FOR REDEMPTION.

The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is: (a) nonagricultural homesteaded land as defined in section 273.13, subdivision 22, (b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a), or (c) seasonal recreational land as defined in section 273.13, subdivision 27 25, paragraph (a); (d)(1) or subdivision 22, paragraph (c)(4), in which event the period of redemption is five years from the date of sale to the state of Minnesota.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale.

Sec. 46. Minnesota Statutes 1986, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **PROPERTY TAXES PAYABLE.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead ~~before reductions made pursuant to section 273.13, subdivisions 22 and 23, but~~ after deductions made pursuant to sections ~~273.13, 273.115, 273.116, 273.135, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year.~~ 273.13, 273.115, 273.116, 273.135, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of

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the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 274.19, subdivision 8, "property taxes payable" shall also include the amount of the gross rent paid in the preceding year for the site on which the homestead is located, which is attributable to the net tax paid on the site. The amount attributable to property taxes shall be determined by multiplying the net tax on the parcel by a fraction, the numerator of which is the gross rent paid for the calendar year for the site and the denominator of which is the gross rent paid for the calendar year for the parcel. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.13, subdivision 22 or 23 on or before June 1 of the year in which the "property taxes payable" were levied; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made prior to October 1 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

Sec. 47. Minnesota Statutes 1986, section 290A.03, subdivision 14, is amended to read:

Subd. 14. **NET TAX.** "Net tax" means

(a) the property tax, exclusive of special assessments, interest, and penalties, and after reduction for any state paid property tax credits as required in subdivision 13 ~~except for the reduction pursuant to section 273.13, subdivisions 22 and 23; or~~

(b) the payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes,

for the calendar year in which the rent was paid. If a portion of the property is occupied as a homestead or is used for other than rental purposes, the net tax shall be the amount of tax reduced by the percentage that the nonrental use comprises of the total square footage of the building. If a portion of the property is used for purposes other than for residential rental and none of the property is occupied as a homestead, the net tax shall be the amount of the

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tax of the parcel multiplied by a fraction, the numerator of which is the assessed value of the residential rental portion and the denominator of which is the total assessed value of the parcel. If a portion of the property is used for other than rental residential purposes, the county treasurer shall list on the property tax statement the amount of net tax pertaining to the rental residential portion of the property.

The amount of the net tax shall not be reduced by an abatement or a court ordered reduction in the property tax on the property made after the certificate of rent constituting property tax has been provided to the renter.

Sec. 48. Minnesota Statutes 1986, section 290A.04, subdivision 2, is amended to read:

Subd. 2. A claimant whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund will be equal to the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
Net loss and up to \$2,999	1.0 percent	5 percent	\$1,125
3,000 to 3,499	1.0 percent	6 percent	\$1,125
3,500 to 3,999	1.0 percent	7 percent	\$1,125
4,000 to 4,499	1.0 percent	8 percent	\$1,125
4,500 to 4,999	1.0 percent	9 percent	\$1,125
5,000 to 5,999	1.0 percent	10 percent	\$1,125
6,000 to 6,999	1.0 percent	11 percent	\$1,125
7,000 to 7,999	1.0 percent	12 percent	\$1,125
8,000 to 8,999	1.1 percent	13 percent	\$1,125
9,000 to 9,999	1.2 percent	14 percent	\$1,125
10,000 to 10,999	1.3 percent	15 percent	\$1,125
11,000 to 11,999	1.4 percent	16 percent	\$1,125
12,000 to 12,999	1.5 percent	17 percent	\$1,125
13,000 to 13,999	1.5 percent	18 percent	\$1,125
14,000 to 14,999	1.5 percent	19 percent	\$1,125
15,000 to 15,999	1.5 percent	20 percent	\$1,125
16,000 to 16,999	1.5 percent	21 percent	\$1,125
17,000 to 17,999	1.5 percent	22 percent	\$1,125
18,000 to 18,999	1.5 percent	23 percent	\$1,125
19,000 to 19,999	1.5 percent	24 percent	\$1,125
20,000 to 20,999	1.6 percent	25 percent	\$1,125
21,000 to 21,999	1.6 percent	27 percent	\$1,125

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

22,000 to 22,999	1.6 percent	29 percent	\$1,125
23,000 to 23,999	1.8 percent	31 percent	\$1,125
24,000 to 24,999	1.8 percent	33 percent	\$1,105
25,000 to 25,999	1.8 percent	35 percent	\$1,080
26,000 to 26,999	2.0 percent	38 percent	\$1,050
27,000 to 27,999	2.0 percent	41 percent	\$1,020
28,000 to 28,999	2.0 percent	44 percent	\$ 990
29,000 to 29,999	2.0 percent	47 percent	\$ 960
30,000 to 30,999	2.0 percent	50 percent	\$ 930
31,000 to 31,999	2.2 percent	50 percent	\$ 900
32,000 to 32,999	2.2 percent	50 percent	\$ 800
33,000 to 33,999	2.2 percent	50 percent	\$ 700
34,000 to 34,999	2.2 percent	50 percent	\$ 600
35,000 to 35,999	2.2 percent	50 percent	\$ 500
36,000 to 36,999	2.4 percent	50 percent	\$ 400
37,000 to 37,999	2.4 percent	50 percent	\$ 300
38,000 to 38,999	2.4 percent	50 percent	\$ 200
39,000 to 39,999	2.4 percent	50 percent	\$ 100
40,000 and over	2.4 percent	50 percent	-0-

The payment made to a claimant shall be the amount of the state refund calculated pursuant to this subdivision; ~~less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23.~~ No payment is allowed if the claimant's household income is \$40,000 or more.

Sec. 49. Minnesota Statutes 1986, section 473.446, subdivision 1, is amended to read:

Subdivision 1. TAXATION WITHIN TRANSIT TAXING DISTRICT. For the purposes of sections 473.401 to 473.451 and the metropolitan transit system, except as otherwise provided in this subdivision the regional transit board shall levy each year upon all taxable property within the metropolitan transit taxing district, defined in subdivision 2, a transit tax consisting of:

(a) an amount up to two mills times the assessed value of all such property, based upon the level of transit service provided for the property, the proceeds of which shall be used for payment of the expenses of operating transit and para-transit service and to provide for payment of obligations issued by the commission under section 473.436, subdivision 6;

(b) an additional amount, if any, as the board determines to be necessary to provide for the full and timely payment of its certificates of indebtedness and other obligations outstanding on July 1, 1985, to which property taxes under this section have been pledged; and

(c) an additional amount necessary to provide full and timely payment of certificates of indebtedness, bonds, or other obligations issued or to be issued under section 473.39 by the council for purposes of acquisition and betterment of property and other improvements of a capital nature and to which the council or board has specifically pledged tax levies under this clause.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive full peak service and limited off-peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.5 mills on the property. The county auditor shall reduce the tax levied pursuant to this subdivision on all property within statutory and home rule charter cities and towns that receive limited peak service by an amount equal to the tax levy that would be produced by applying a rate of 0.75 mills on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner shall review the certifications to determine their accuracy and may make changes in the certification as necessary or return a certification to the county auditor for corrections. The commissioner shall pay to the regional transit board the amounts certified by the county auditors on the dates provided in section ~~273.13, subdivision 15a, clause (3)~~ 273.1394. There is annually appropriated from the general fund in the state treasury to the department of revenue the amounts necessary to make these payments in fiscal year 1987 and thereafter.

For the purposes of this subdivision, "full peak and limited off-peak service" means peak period regular route service, plus weekday midday regular route service at intervals longer than 60 minutes on the route with the greatest frequency; and "limited peak period service" means peak period regular route service only.

Sec. 50. Minnesota Statutes 1986, section 473F.02, subdivision 4, is amended to read:

Subd. 4. "Residential property" means the following categories of property, as defined in section 273.13, excluding that portion of such property exempt from taxation pursuant to section 272.02:

(a) Class ~~1a, 1b~~ 1, 2a, 4a, ~~5a, 5b, 7a, 7b, 7c, and 7d~~ 4b, 4c, and 4d property except resorts

(b) And that portion of class 3a, 3b, and ~~40~~ 5 property used exclusively for residential occupancy.

Sec. 51. Minnesota Statutes 1986, section 473F.02, subdivision 17, is amended to read:

Subd. 17. "Public grants" means (1) the sum of all money received by a municipality pursuant to ~~sections 273.13, subdivisions 3 and 15(4), 290.361, subdivision 4, 297.13~~ section 273.1394; and (2) one-tenth of all other money received by a municipality from the federal and state governments, and their agencies and political subdivisions, under programs of intergovernmental aids and grants distributed by formula or upon application. The state auditor shall certify the public grants of each municipality for each year to the commissioner of finance not later than September 1 of the subsequent year.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 52. Minnesota Statutes 1986, section 475.61, subdivision 3, is amended to read:

Subd. 3. **IRREVOCABILITY.** Tax levies so made and filed shall be irrevocable, except as provided in this subdivision.

In each year when there is on hand any excess amount in the debt redemption fund of a school district at the time the district makes its property tax levies, the amount of the excess shall be certified by the school board to the commissioner of education who shall compute the reduced tax levy, after adjustment for the homestead credit replacement aid paid pursuant to section 273.1394, the agricultural credit replacement aid paid pursuant to section 273.1395, and the tax base adjustment pursuant to section 273.1396. The commissioner of education shall certify the adjusted reduced tax levy to the county auditor and the auditor shall reduce the tax levy otherwise to be included in the rolls next prepared by the amount certified, unless the school board determines that the excess amount is necessary to ensure the prompt and full payment of the obligations and any call premium on the obligations, or will be used for redemption of the obligations in accordance with their terms. An amount shall be presumed to be excess for a school district in the amount that it, together with the levy required by subdivision 1, will exceed 106 percent of the amount needed to meet when due the principal and interest payments on the obligations due before the second following July 1. This subdivision shall not limit a school board's authority to specify a tax levy in a higher amount if necessary because of anticipated tax delinquency or for cash flow needs to meet the required payments from the debt redemption fund.

If the governing body, including the governing body of a school district, in any year makes an irrevocable appropriation to the debt service fund of moneys actually on hand or if there is on hand any excess amount in the debt service fund, the recording officer may certify to the county auditor the fact and amount thereof and the auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

Sec. 53. **REPEALER.**

Minnesota Statutes 1986, sections 13.58; 124.2131, subdivision 4; 124.2137; 124.2139; 124A.031, subdivision 4; 273.112, subdivision 9; 273.115; 273.116; 273.13, subdivisions 26, 27, 28, and 29; 273.1311; 273.1315; 273.135, subdivision 5; and 273.1391, subdivision 4, are repealed.

Sec. 54. **EFFECTIVE DATE.**

Except where provided otherwise, sections 1 to 53 are effective for taxes levied in 1988, payable in 1989, and thereafter.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

ARTICLE 7

PROPERTY TAX ADMINISTRATION

Section 1. [3.861] TAX STUDY COMMISSION.

Subdivision 1. CREATION. A legislative tax study commission is created.

Subd. 2. DUTIES. The commission shall:

(1) examine the burden of income maintenance and social services on the property tax levies of the counties, and of each county individually, and determine the impact of total or increased state funding of income maintenance and social services on those levies;

(2) examine and recommend to the legislature alternative methods of income adjusted property tax relief for homeowners and renters;

(3) examine and recommend to the legislature alternative property tax classification systems that reduce the number of property classifications, and determine the effects of the consolidation by type and use of property;

(4) examine the tax structures and revenue needs and revenue resources of state and local governments;

(5) study and make recommendations about long-range tax policy;

(6) analyze proposed tax legislation, with particular reference to revenue and distribution impact, local government financing, and adherence to sound tax policies, and report its findings to the legislature;

(7) examine the property tax burdens on agricultural, commercial, industrial, and employment property by county, and by type, use, and market value; and

(8) file a report at least biennially with the legislature.

Subd. 3. MEMBERSHIP. The commission consists of seven members of the senate, including the chair of the committee on taxes and tax laws, to be appointed by the subcommittee on committees of the committee on rules and administration, and seven members of the house of representatives, including the chair of the committee on taxes, to be appointed by the speaker.

Appointees are members of the commission only while they are members of the bodies from which they were appointed. The first members serve for a term expiring on January 15 of the next biennial session of the legislature and until their successors are appointed. Later members must be appointed at the start of each biennial session of the legislature for a two-year term beginning on January 16 of that year. Vacancies must be filled in the same manner as the original appointment.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. MEETINGS; OFFICERS. The commission shall hold meetings at the times and places it designates. The commission's first chair shall be the chair of the house tax committee. Every two years, the chair of the house tax committee and the chair of the senate committee on taxes and tax laws shall alternate the office of commission chair. The commission shall select a vice-chair and other officers from its membership.

Subd. 5. STAFF; OFFICE; EQUIPMENT. (a) In performing its duties, the commission must utilize existing legislative staff.

(b) The commission may purchase equipment and supplies, and may enter into contracts for the furnishing of services, equipment, and supplies necessary to discharge its duties.

Subd. 6. ASSISTANCE OF OTHER AGENCIES. (a) The commission may request information from any state officer or agency to assist in carrying out this section. The officer or agency shall promptly provide the data requested to the extent permitted by law.

(b) The commissioner of revenue shall prepare, maintain, and make available to the commission data that compares (1) household incomes with rents and property tax burdens; and (2) household incomes with home market values and property tax burdens. The data must be furnished and made available in the form and manner that the commission determines will facilitate its use to discharge the duty imposed in subdivision 2, clause (2). The data must not disclose the name, address, social security number, or any other item of information that the commissioner believes may identify an individual. The data must be furnished to the commission by September 15, 1987, and subsequently maintained by the commissioner so that the most complete and current data available is furnished to the commission.

Subd. 7. EXPENSES AND REIMBURSEMENT OF MEMBERS AND STAFF. The members of the commission may receive per diem when attending meetings and other commission business. Members and legislative employees must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.

Subd. 8. COMMISSION EXPENSES AND REPORTS. Expenses of the commission must be approved by the chair or other member as the rules of the commission may provide. The expenses must then be paid in the same way as other state expenses are paid. A general summary or statement of expenses incurred by the commission and paid must be made to the legislature by November 15 of each even-numbered year.

Subd. 9. APPROPRIATION. \$300,000 is appropriated for the biennium ending June 30, 1989, from the general fund to the tax study commission.

Sec. 2. Minnesota Statutes 1986, section 88.49, is amended by adding a subdivision to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 9a. LAND TRADES WITH GOVERNMENTAL UNITS. Notwithstanding subdivisions 6 and 9, or section 88.491, subdivision 2, if an owner trades land under auxiliary forest contract for land owned by a governmental unit and the owner agrees to use the land received in trade from the governmental unit for the production of forest products, upon resolution of the county board, no taxes and assessments shall be levied against the land traded, except that any current or delinquent annual taxes or yield taxes due on that land while it was under the auxiliary forest provision must be paid prior to the land exchange. The land received from the governmental unit in the land trade automatically qualifies for inclusion in the tree growth tax law.

Sec. 3. Minnesota Statutes 1986, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. **ADJUSTED ASSESSED VALUE. (a) COMPUTATION.** ~~The equalization aid review committee, consisting of the commissioner of education, the commissioner of administration, the commissioner of agriculture, and the commissioner of revenue, is hereby continued and permanently established. The duty of this committee shall be to review the assessed valuation of the districts of the state. The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures referenced in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized assessed value for the various strata of taxable property in each school district, which value shall be designated as the adjusted assessed value. The department of revenue shall take such steps as are necessary in the performance of that duty and may incur such expense as is necessary therefor. The commissioner of revenue is authorized to reimburse any county or governmental official for requested services performed in ascertaining such adjusted valuation. On or before March 15 annually, the department of revenue shall file with the chair of the tax committee of the house of representatives and the chair of the committee on taxes and tax laws of the senate a report of adjusted assessed values. On or before March June 15, annually, the department of revenue shall submit file its final report on the assessed values established by the previous year's assessment to said committee for approval or rejection and, if approved, such report shall be filed not later than the following July 1 with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of mill rates. A copy of the adjusted assessed value so filed shall be forthwith mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which such each district is located.~~

(b) **METHODOLOGY.** In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific

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procedures necessary for proper execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act. By January 15, 1985, the commissioner shall report to the chairs of the house tax committee and the senate committee on taxes and tax laws the results of a study which the commissioner shall prepare comparing the 1983 sales ratio study based upon the original 1983 assessment/sales ratio study methodology with the new methodology as provided in clause (b). The 1984 adjusted assessed values which are certified to the commissioner of education shall be computed using the 1983 assessment/sales ratio study methodology unless the 1985 legislature directs otherwise.

(c) **AGRICULTURAL LANDS.** For purposes of determining the adjusted assessed value of agricultural lands for the calculation of ~~1977~~ 1987 adjusted assessed values and thereafter, the market value of agricultural lands shall be the ~~arithmetic average of (1) the price for which the property would sell in an arms length transaction; and (2) the income which could be derived from its free market gross rental rate capitalized at a rate of nine percent.~~

Sec. 4. Minnesota Statutes 1986, section 124.2131, subdivision 2, is amended to read:

Subd. 2. **ADJUSTED ASSESSED VALUE; GROWTH LIMIT.** In the calculation of adjusted assessed valuations for ~~1979~~ 1987 and each year thereafter, the ~~committee~~ commissioner of revenue shall not increase the adjusted assessed valuation of taxable property for any school district over the adjusted assessed valuation established and filed with the commissioner of education for the immediately preceding year by more than the greater of (1) 19 percent of the certified adjusted assessed valuation established and filed with the commissioner of education for the year immediately preceding, or (2) 40 percent of the difference between the district's total adjusted assessed valuation for the current year calculated without the application of this subdivision and the district's certified adjusted assessed valuation established and filed with the commissioner of education for the immediately preceding year.

Sec. 5. Minnesota Statutes 1986, section 124.2131, subdivision 3, is amended to read:

Subd. 3. **DECREASE IN IRON ORE ASSESSED VALUE.** If in any year the assessed value of ~~class 9a and 9b iron ore~~ iron ore property, as defined in section 273.13, ~~subdivision 30,~~ in any district is less than the assessed value of such property in the immediately preceding year, the ~~equalization aid review committee~~ commissioner of revenue shall redetermine for all purposes the adjusted assessed value of the immediately preceding year taking into account only the decrease in assessed value of ~~class 9a and 9b iron ore~~ iron ore property. If subdivision 2, clause (a) is applicable to such a district, the decrease in ~~class 9a and 9b iron ore~~ iron ore property shall be applied to the adjusted assessed value as limited therein. In all other respects, the provisions of clause (1) shall be applicable.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1986, section 124.2131, subdivision 5, is amended to read:

Subd. 5. **ADJUSTED ASSESSED VALUE; APPEALS.** Should any district within ~~60~~ 30 days after receipt of a copy of a report filed with the commissioner of education made pursuant to subdivision 1 or 3, be of the opinion that the ~~equalization aid review committee~~ commissioner of revenue has made an error in the determination of the school district's market value, it may appeal from the report or portion thereof relating to the school district to the commissioner of revenue for a review and determination of the matters contained in the appeal. The commissioner shall advise the school district of the determination within 30 days. If the school district wishes to appeal the determination of the commissioner, it must file a notice of appeal with the tax court, as provided in subdivisions 6 to 11 within ten days of the notice of determination from the commissioner.

Sec. 7. Minnesota Statutes 1986, section 124.2131, subdivision 6, is amended to read:

Subd. 6. **NOTICE OF APPEAL.** The school district shall file with the court administrator of the tax court a notice of appeal from the determination of the ~~equalization aid review committee~~ commissioner of revenue fixing the market value of the school district, and such notice shall show the basis of the alleged error. A copy of such notice of appeal shall be served upon the ~~commissioners~~ commissioner of revenue ~~and education~~, and proof of service shall be filed with the court administrator.

Sec. 8. Minnesota Statutes 1986, section 124.2131, subdivision 7, is amended to read:

Subd. 7. **HEARING.** Upon receipt of the notice of appeal the tax court shall review the notice of appeal and determine whether it appears from the allegations and proofs therein contained that an error has been made in the determination by the ~~equalization aid review committee~~ commissioner of revenue of the market value of the property in the school district. If the court finds it probable that such an error has been made, it shall notice the matter for hearing; otherwise, it shall dismiss the appeal and notify the parties thereof. Hearing shall be set and held in the same manner as other hearings of the tax court are set and heard, except that an appeal filed under subdivision 5 shall take precedence over other appeals pending before the court. The attorney general shall represent the ~~commissioners~~ commissioner of revenue ~~and education and equalization aid review committee.~~ The administrative procedure act, sections 14.09 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.70, shall apply to hearings insofar as it is applicable.

Sec. 9. Minnesota Statutes 1986, section 124.2131, subdivision 8, is amended to read:

Subd. 8. **TAX COURT DETERMINATION.** The tax court shall hear,

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consider and determine such appeal, de novo upon the issues made by the notice of appeal, if a hearing has been granted thereon. At the conclusion of the hearing the court shall (1) file findings of fact, or (2) ~~refer~~ refer the issues to the ~~equalization aid review committee~~ commissioner of revenue with instructions and recommendations for a determination and correction of the market value of the appealing school district. The decision of the tax court, if it decides the matter de novo, shall have the same force and effect as a determination by the ~~equalization aid review committee~~ commissioner of revenue in the first instance under this section, and the ~~equalization aid review committee~~ commissioner of revenue shall be notified thereof. If the matter is rereferred to the ~~equalization aid review committee~~ commissioner of revenue, a redetermination by the ~~equalization aid review committee~~ commissioner of revenue in accordance with the recommendations of the tax court shall likewise have the same force and effect as a determination by it in the first instance under this section.

Sec. 10. Minnesota Statutes 1986, section 124.2131, subdivision 11, is amended to read:

Subd. 11. **AIDS PENDING APPEALS.** During the pendency of any appeal from an ~~equalization aid review committee~~ the commissioner of revenue evaluation, state aids to the district so appealing shall be paid on the basis of the evaluation subject to adjustment upon final determination of the appeal.

Sec. 11. Minnesota Statutes 1986, section 124.38, subdivision 8, is amended to read:

Subd. 8. "Adjusted assessed valuation" means, as of any date, the valuation of all taxable property most recently determined by the ~~equalization aid review committee~~ commissioner of revenue in accordance with the provisions of section 124.2131. "Market value" means the value of all taxable property in the district on which its net debt limit is based as provided in section 475.53, subdivision 4.

Sec. 12. Minnesota Statutes 1986, section 124A.02, subdivision 3a, is amended to read:

Subd. 3a. **ADJUSTED ASSESSED VALUATION.** "Adjusted assessed valuation" ~~or "EARC valuation"~~ means the assessed valuation of the taxable property notwithstanding the provisions of section 275.49 of the school district as adjusted by the ~~equalization aid review committee~~ commissioner of revenue under section 124.2131. The adjusted assessed valuation for any given calendar year shall be used to compute levy limitations for levies certified in the succeeding calendar year and aid for the school year beginning in the second succeeding calendar year.

Sec. 13. Minnesota Statutes 1986, section 124A.02, subdivision 8, is amended to read:

Subd. 8. **EQUALIZING FACTOR.** "Equalizing factor" means a number

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equal to the minimum ~~EARC~~ adjusted assessed valuation per total pupil unit which disqualifies a district from earning any basic foundation aid. The equalizing factor for each school year and for levies for use in that school year equals the ratio, rounded to the nearest dollar, of the foundation aid formula allowance for that school year to the basic maintenance mill rate for that school year.

Sec. 14. Minnesota Statutes 1986, section 124A.08, subdivision 5, is amended to read:

Subd. 5. **SECOND TIER LEVY FUND BALANCE.** Beginning with the 1983 payable 1984 levy, for a district where the net unappropriated operating fund balance as of the June 30 before the levy is certified exceeds \$500 per total pupil unit in the year when the levy is certified, the second tier levy shall be reduced by the amount of the excess times the lesser of (a) one, or (b) the ratio of the district's ~~EARC~~ adjusted assessed valuation for the preceding year per total pupil unit in the school year for which the levy is attributable, to the equalizing factor. Beginning with the 1984-1985 school year, the second tier aid for the year when that levy is used shall be reduced by any amount of the excess which is not subtracted from the levy.

Sec. 15. Minnesota Statutes 1986, section 134.33, subdivision 1, is amended to read:

Subdivision 1. An establishment grant as described in section 134.32, subdivision 2, shall be made to any regional public library system for the first two state fiscal years after a board of county commissioners has contracted to join that system and has agreed that the county will provide the levels of support for public library service specified in this section. In the first year of participation, the county shall provide an amount of support equivalent to .3 mill times the adjusted assessed valuation of the taxable property of the county as determined by the ~~equalization aid review committee~~ commissioner of revenue for the second year preceding that calendar year or two-thirds of the per capita amount established under the provisions of section 134.34, subdivision 1, whichever amount is less. In the second year of participation and in each year thereafter, the county shall provide an amount of support equivalent to .4 mill times the adjusted assessed valuation of the taxable property of the county as determined by the ~~equalization aid review committee~~ commissioner of revenue for the second year preceding that calendar year or the per capita amount established under the provisions of section 134.34, subdivision 1, whichever is less. The minimum level of support shall be certified annually to the county by the department of education. In no event shall the department of education require any county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for an establishment grant. This section shall not be construed to prohibit any county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 16. Minnesota Statutes 1986, section 134.34, subdivision 1, is amended to read:

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Subdivision 1. A regional library basic system support grant shall be made to any regional public library system where there are at least three participating counties and where each participating city and county, except in the first year of participation as provided in section 134.33, is providing for public library service support the lesser of (a) an amount equivalent to .4 mill times the adjusted assessed valuation of the taxable property of that city or county, as determined by the ~~equalization aid review committee~~ commissioner of revenue for the second year preceding that calendar year or (b) a per capita amount calculated under the provisions of this subdivision. The per capita amount is established for calendar year 1980 as \$3. In succeeding calendar years, the per capita amount shall be increased by a percentage equal to one-half of the percentage by which the total state adjusted assessed valuation of property as determined by the ~~equalization aid review committee~~ commissioner of revenue for the second year preceding that calendar year increases over that total adjusted assessed valuation for the third year preceding that calendar year. The minimum level of support shall be certified annually to the participating cities and counties by the department of education. A city which is a part of a regional public library system shall not be required to provide this level of support if the property of that city is already taxable by the county for the support of that regional public library system. In no event shall the department of education require any city or county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for a regional library basic system support grant. This section shall not be construed to prohibit a city or county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 17. Minnesota Statutes 1986, section 134.34, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of section 134.33 and subdivision 1 of this section, after the second year of participation by a city or county, the dollar amount of the minimum level of support for that city or county shall not be required to increase by more than ten percent over the dollar amount of the minimum level of support required of it in the previous year. If a participating city or county which has been providing for public library service support in an amount equivalent to .67 mill times the assessed valuation of the taxable property of that city or county for the year preceding that calendar year would be required to increase the dollar amount of such support by more than ten percent to reach the equivalent of .4 mill times the adjusted assessed valuation of the taxable property of that participating city or county as determined by the ~~equalization aid review committee~~ commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1, it shall only be required to increase the dollar amount of such support by ten percent per year until such time as it reaches an amount equivalent to .4 mill times the adjusted assessed valuation of that taxable property as determined by the ~~equalization aid review committee~~ commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 18. Minnesota Statutes 1986, section 270.11, subdivision 1, is amended to read:

Subdivision 1. **TO ACT AS STATE BOARD OF EQUALIZATION.** The commissioner of revenue shall have and exercise all the rights, powers and authority by law vested in the state board of equalization, which board of equalization is hereby continued, with full power and authority to review, modify, and revise all of the acts and proceedings of the commissioner in so far as they relate to the equalization and valuation of property assessed for taxation, as prescribed by section 270.12; ~~which state board of equalization shall meet on August 15 of each year during its existence.~~

Sec. 19. Minnesota Statutes 1986, section 270.11, subdivision 2, is amended to read:

Subd. 2. **COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.** Each county assessor shall file by June 15 with the commissioner of revenue a copy of the abstract that will be acted upon by the county board of review. The abstract must list the real and personal property in the county, as equalized by the local board of review or equalization, itemized by assessment districts. A printed or typewritten copy of the proceedings of the local board of review or equalization must also be filed with the commissioner. The commissioner of revenue may require The assessor of each county in the state to shall file with the commissioner, ~~on or before August 1,~~ each year, complete abstracts of all real and personal property in the county, as equalized by the county board of equalization, and itemized by assessment districts, within five working days following final action of the county board of equalization, any changes made by the county board of equalization. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the county board of equalization, and it shall be the duty of the county assessor to so report to the commissioner of revenue.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before ~~January 1~~ November 15 of each calendar year.

Sec. 20. Minnesota Statutes 1986, section 270.12, subdivision 2, is amended to read:

Subd. 2. The board shall meet annually ~~on August 15~~ between July 15 and October 1 at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its market value, subject to the following rules:

(1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its market value in money, such percent as will bring the same to its market value in money;

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(2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its market value in money, such percent as will reduce the same to its market value in money;

(3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns or cities, or of the property not in towns or cities, such percent as the board believes will raise or reduce the same to its market value in money;

(4) The board shall add to the aggregate valuation of any class of personal property of any county, town, or city, which the board believes to be valued below the market value thereof, such percent as will raise the same to its market value in money;

(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the market value thereof, such percent as will reduce the same to its market value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof;

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing. The board shall not decrease any such assessment below the valuation placed by the county board of equalization; and

(8) In equalizing values pursuant to this section, the board shall utilize a 12-month assessment/sales ratio study conducted by the department of revenue containing only sales that occurred between October 1 of the year immediately preceding the previous year to September 30 of the previous year. The sales prices used in the study must be discounted for terms of financing. The board shall use the median ratio as the statistical measure of the level of assessment for any particular category of property.

Sec. 21. Minnesota Statutes 1986, section 270.12, subdivision 3, is amended to read:

Subd. 3. ~~For taxes levied in 1985 and thereafter~~ When a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the depart-

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ment of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted assessed value as determined by the ~~equalization aid review committee~~ commissioner in each portion is to the total adjusted assessed value of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Assessed values as determined by the ~~equalization aid review committee~~ commissioner shall be the values as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on ~~August~~ July 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following ~~November 15~~ October 1.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

Sec. 22. Minnesota Statutes 1986, section 270.13, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

270.13 RECORD OF PROCEEDINGS CHANGING ASSESSED VALUATION; DUTIES OF COUNTY AUDITOR.

A record of all proceedings of the commissioner of revenue affecting any change in the assessed valuation of any property, as revised by the state board of equalization, shall be kept by the commissioner of revenue and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before ~~November 15~~ October 1 or 30 days after submission of the abstract required by section 270.11, subdivision 2, whichever is later. This record shall specify the amounts or amount, or both, added to or deducted from the valuation of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessments of individuals, copartnerships, associations, or corporations. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no valuation of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no valuation of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessments of individuals, copartnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner of revenue.

Sec. 23. [270.485] SENIOR ACCREDITATION.

The legislature finds that the property tax system would be enhanced by requiring that every county assessor and senior appraiser in the department of revenue's property tax review division obtain senior accreditation from the state board of assessors. By January 1, 1989, every county assessor and senior appraiser, including the department's regional representatives, must obtain senior accreditation from the state board of assessors. The board shall provide the necessary courses or training. If a department senior appraiser or regional representative fails to obtain senior accreditation by January 1, 1989, the failure shall be grounds for dismissal, disciplinary action, or corrective action. After December 30, 1988, the commissioner must not approve the appointment of a county assessor who is not senior accredited by the state board of assessors. No employee hired by the commissioner as a senior appraiser or regional representative after June 30, 1987, shall attain permanent status until the employee obtains senior accreditation.

Sec. 24. Minnesota Statutes 1986, section 270.87, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

270.87 CERTIFICATION TO COUNTY ASSESSORS.

After making an annual determination of the equalized fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, the commissioner shall certify the equalized fair market value to the county assessor on or before October 1, which shall constitute the equalized fair market value of the operating property of the railroad company in such county and the taxing districts therein upon which taxes shall be levied and collected in the same manner as on the commercial and industrial property of such county and the taxing districts therein.

Sec. 25. Minnesota Statutes 1986, section 271.21, subdivision 2, is amended to read:

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 \$5,000, including penalty and interest.

Sec. 26. Minnesota Statutes 1986, section 272.115, subdivision 2, is amended to read:

Subd. 2. The certificate of value shall require such facts and information as may be determined by the ~~equalization aid review committee~~ commissioner to be reasonably necessary in the administration of the state education aid formulas. The form of the certificate of value shall be prescribed by the department of revenue which shall provide an adequate supply of forms to each county auditor.

Sec. 27. [272.121] CURRENT TAX ON DIVIDED PARCELS.

If a deed or other instrument conveys a parcel of land that is less than a whole parcel of land as described in the current tax list, the county auditor shall not transfer or divide the land in the auditor's official records, and the county recorder shall not file and record the instrument, unless the instrument of conveyance contains a certification by the county treasurer that the taxes due in the current tax year for the whole parcel have been paid. This certification is in addition to the certification for delinquent tax required by section 272.12. No certification of current tax paid is required for any sheriff's or referee's certificate of sale or other instrument if a certification of delinquent tax for the instrument is not required under section 272.12.

Sec. 28. Minnesota Statutes 1986, section 273.061, subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. OFFICE CREATED; APPOINTMENT, QUALIFICATIONS. Every county in this state shall have a county assessor. The county assessor shall be appointed by the board of county commissioners and shall be a resident of this state. The assessor shall be selected and appointed because of knowledge and training in the field of property taxation and appointment shall be approved by the commissioner of revenue before the same shall become effective. Upon receipt by the county commissioners of the commissioner of revenue's refusal to approve an appointment, the term of the appointee shall terminate at the end of that day. Notwithstanding any law to the contrary, a county assessor must have senior accreditation from the state board of assessors by January 1, 1989.

Sec. 29. Minnesota Statutes 1986, section 273.061, subdivision 8, is amended to read:

Subd. 8. POWERS AND DUTIES. The county assessor shall have the following powers and duties:

(1) To call upon and confer with the township and city assessors in the county, and advise and give them the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real property in the county will be attained.

(2) To assist and instruct the local assessors in the preparation and proper use of land maps and record cards, in the property classification of real and personal property, and in the determination of proper standards of value.

(3) To keep the local assessors in the county advised of all changes in assessment laws and all instructions which the assessor receives from the commissioner of revenue relating to their duties.

(4) To have authority to require the attendance of groups of local assessors at sectional meetings called by the assessor for the purpose of giving them further assistance and instruction as to their duties.

(5) To immediately commence the preparation of a large scale topographical land map of the county, in such form as may be prescribed by the commissioner of revenue, showing thereon the location of all railroads, highways and roads, bridges, rivers and lakes, swamp areas, wooded tracts, stony ridges and other features which might affect the value of the land. Appropriate symbols shall be used to indicate the best, the fair and the poor land of the county. For use in connection with the topographical land map, the assessor shall prepare and keep available in the assessor's office tables showing fair average minimum and maximum market values per acre of cultivated, meadow, pasture, cut-over, timber and waste lands of each township. The assessor shall keep the map and tables available in the office for the guidance of town assessors, boards of review, and the county board of equalization.

(6) To also prepare and keep available in the office for the guidance of town

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assessors, boards of review and the county board of equalization, a land valuation map of the county, in such form as may be prescribed by the commissioner of revenue. This map, which shall include the bordering tier of townships of each county adjoining, shall show the average market value per acre, both with and without improvements, as finally equalized in the last assessment of real estate, of all land in each town or unorganized township which lies outside the corporate limits of cities.

(7) To regularly examine all conveyances of land outside the corporate limits of cities of the first and second class, filed with the county recorder of the county, and keep a file, by descriptions, of the considerations shown thereon. From the information obtained by comparing the considerations shown with the market values assessed, the assessor shall make recommendations to the county board of equalization of necessary changes in individual assessments or aggregate valuations.

(8) To prepare annually and keep available in the assessor's office for the guidance of boards of review and the county board of equalization, a table showing the market value per capita of all personal property in each assessment district in the county as finally equalized in the last previous assessment of personal property. For the guidance of the county board of equalization, the assessor shall also add to the table the market value per capita of all personal property of each assessment district for the current year as equalized by the local board of review.

(9) To become familiar with the values of the different items of personal property so as to be in a position when called upon to advise the boards of review and the county board of equalization concerning property, market values thereof.

(10) While the county board of equalization is in session, to give it every possible assistance to enable it to perform its duties. The assessor shall furnish the board with all necessary charts, tables, comparisons and data which it requires in its deliberations, and shall make whatever investigations the board may desire.

(11) At the request of either the board of county commissioners or the commissioner of revenue, to investigate applications for reductions of valuation and abatements and settlements of taxes, examine the real or personal property involved, and submit written reports and recommendations with respect to the applications, in such form as may be prescribed by the board of county commissioners and commissioner of revenue.

(12) To make diligent search each year for real and personal property which has been omitted from assessment in the county, and report all such omissions to the county auditor.

(13) To regularly confer with county assessors in all adjacent counties about the assessment of property in order to uniformly assess and equalize the value of similar properties and classes of property located in adjacent counties. The conference shall emphasize the assessment of agricultural and commercial and

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industrial property or other properties that may have an inadequate number of sales in a single county.

(14) To render such other services pertaining to the assessment of real and personal property in the county as are not inconsistent with the duties set forth in this section, and as may be required by the board of county commissioners or by the commissioner of revenue.

Sec. 30. Minnesota Statutes 1986, section 273.061, subdivision 9, is amended to read:

Subd. 9. **ADDITIONAL GENERAL DUTIES.** Additional duties of the county assessor shall be as follows: (a) to make all assessments, based upon the appraised values reported by the local assessors or assistants and the county assessor's own knowledge of the value of the property assessed; (b) to personally view and determine the value of any property which because of its type or character may be difficult for the local assessor to appraise; (c) to make all changes ordered by the local boards of review, relative to the assessed value of the property of any individual, firm or corporation after notice has been given and hearings held as provided by law. ~~A local board of review shall have the power to reduce assessments upon petition of the taxpayer but the total of such adjustments shall not reduce the aggregate assessment made by the county assessor by more than one percent of said aggregate assessment. If the total of such adjustments would lower the aggregate assessments made by the county assessor by more than one percent, none of such adjustments shall be allowed. The assessor shall correct any clerical errors or double assessments discovered by the board of review without affecting the one percent referred to above;~~ (d) to enter all assessments in the assessment books, furnished by the county auditor, with each book and the tabular statements for each book in correct balance; (e) to prepare all assessment cards, charts, maps and any other forms prescribed by the commissioner of revenue; (f) to attend the meeting of the county board of equalization; to investigate and report on any assessment ordered by said board; to enter all changes made by said board in the assessment books and prepare the abstract of assessments for the commissioner of revenue; to enter all changes made by the state board of equalization in the assessment books; to deduct all exemptions authorized by law from each assessment and certify to the county auditor the taxable value of each parcel of land, as described and listed in the assessment books by the county auditor, and the taxable value of the personal property of each person, firm, or corporation assessed; (g) to investigate and make recommendations relative to all applications for the abatement of taxes or applications for the reduction of the assessed valuation of any property; (h) to perform all other duties relating to the assessment of property for the purpose of taxation which may be required by the commissioner of revenue.

Sec. 31. Minnesota Statutes 1986, section 273.065, is amended to read:

273.065 DELIVERY OF ASSESSMENT APPRAISAL RECORDS; EXTENSIONS.

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Assessment districts shall complete the assessment appraisal records on or before ~~May 4~~ March 15. The records shall be delivered to the county assessor as of that date and any work which is the responsibility of the local assessor which is not completed by ~~May 4~~ March 15 shall be accomplished by the county assessor or persons employed by the county assessor and the cost of such work shall be charged against the assessment district as provided in section 273.064. Extensions of time to complete the assessment appraisal records may be granted to the local assessor by the county assessor if such extension is approved by the county board.

Sec. 32. Minnesota Statutes 1986, section 273.11, is amended by adding a subdivision to read:

Subd. 10. VALUATION OF AGRICULTURAL LAND. Annually on November 15, beginning in 1988 and each year thereafter, the commissioner of revenue shall provide county assessors with a land valuation schedule showing a range of values to be used in the valuation of agricultural lands for the succeeding year's assessment. The land valuation schedule shall be developed matching the sales data obtained on the certificates of real estate value filed in the 12-month period between October 1 of the year immediately preceding to September 30 of the current year with information obtained from soil surveys. A range of values for each major soil type by region will be provided. Counties having similar soil types, number of degree days, and other similar characteristics will be grouped into regions for purposes of the valuation schedule. The department of revenue, in consultation with the county assessors, shall develop the land valuation schedule.

Sec. 33. Minnesota Statutes 1986, section 273.1102, is amended to read:

273.1102 RATE OF TAX, TERMINOLOGY OF LAWS OR CHARTERS.

The rate of property taxation by any political subdivision or other public corporation for any purpose for which any law or charter now provides a maximum tax rate expressed in mills times the assessed value or times the full and true value of taxable property (except any ~~value adjusted assessed values determined by the state equalization aid review committee by the commissioner under section 124.2131~~) shall not exceed 33-1/3 percent of such maximum tax rate until and unless such law or charter is amended to provide a different maximum tax rate.

Sec. 34. Minnesota Statutes 1986, section 273.1103, is amended to read:

273.1103 NET DEBT, TERMINOLOGY OF LAWS OR CHARTERS.

Net debt incurred by any political subdivision or other public corporation for which any law or any charter provision provides a limit expressed as a percentage of the assessed value or the full and true value of taxable property (except any ~~adjusted assessed value determined by the state equalization aid review committee commissioner under section 124.2131~~) shall not exceed 33-1/3

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percent of such limit until and unless such law or charter is amended to provide a different limit.

Sec. 35. Minnesota Statutes 1986, section 273.33, subdivision 2, is amended to read:

Subd. 2. The personal property, consisting of the pipeline system of mains, pipes and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline, crude oil, or other petroleum products by pipe lines, shall be listed with and assessed by the commissioner of revenue. This subdivision shall not apply to the assessment of the products transported through the pipe lines nor to the lines of local commercial gas companies engaged primarily in the business of distributing gas to consumers at retail nor to pipe lines used by the owner thereof to supply natural gas or other petroleum products exclusively for such owner's own consumption and not for resale to others. On or before ~~the fifteenth day of November~~ October 1, the commissioner shall certify to the auditor of each county, the amount of such personal property assessment against each company in each district in which such property is located.

Sec. 36. Minnesota Statutes 1986, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69 kv and above located in an unorganized township, and distribution lines, and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before ~~the 15th day of November~~ October 1, shall certify to the auditor of each county in which such property is located the amount of the assessment made against each company and person owning such property.

Sec. 37. Minnesota Statutes 1986, section 274.01, subdivision 1, is amended to read:

Subdivision 1. (a) The town board of each town, the council or other governing body of each city, except in cities whose charters provide for a board of equalization, shall be a board of review. The county assessor shall fix a day and time when each ~~of such boards~~ board and the board of equalization of any city whose charter provides for a board of equalization shall meet in the several assessment districts of the county, and shall on or before ~~April 1st~~ February 15 of each year give written notice thereof to the clerk. ~~Such meetings~~ Notwithstanding the provisions of any charter to the contrary shall, the meeting must be held between April 1st and June 30th ~~May 31~~ in each year; ~~and,~~ The clerk shall give published and posted notice of ~~such the~~ meeting at least ten days prior to the date fixed. ~~Such The~~ board shall meet at the office of the clerk to review the assessment and classification of property in such town or district, and immedi-

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ately proceed to examine and see that all taxable property in the town or district has been properly placed upon the list, and duly valued by the assessor. ~~In case~~ If any property, real or personal ~~shall have~~ has been omitted, the board shall place it upon the list with its market value, and correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, ~~shall be~~ is entered on the assessment list at its market value; but no assessment of the property of any person shall be raised until the person has been duly notified of the intent of the board so to do. On application of any person feeling aggrieved, the board shall review the assessment or classification or both, and correct it as shall appear just. A majority of the members may act at such meeting, and adjourn from day to day until they finish the hearing of all cases presented. The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but shall not vote. The county assessor, or an assistant delegated by the county assessor shall attend such meetings. The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite such item. The county assessor shall enter all changes made by the board in the assessment book.

(b) If a person fails to appear in person, by counsel, or by written communication before the board after being duly notified of the board's intent to raise the assessment of the property, or if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of equalization for a review of the assessment or classification, except when an assessment was made subsequent to the meeting of the board, as provided in section 273.01, or that the person can establish not having received notice of market value at least five days before the local board of review meeting.

(c) A local board of review may reduce assessments upon petition of the taxpayer but the total reductions must not reduce the aggregate assessment made by the county assessor by more than one percent. If the total reductions would lower the aggregate assessments made by the county assessor by more than one percent, none of the adjustments may be made. The assessor shall correct any clerical errors or double assessments discovered by the board of review without regard to the one percent limitation.

(d) The board of review, and the board of equalization of any city, unless a longer period is approved by the commissioner of revenue, shall complete its work and adjourn within 20 days from the time of convening specified in the notice of the clerk and no action taken subsequent to such date shall be valid. All complaints in reference to any assessment or classification made after the meeting of such board, shall be heard and determined by the county board of equalization. Any nonresident may, at any time, before the meeting of the board of review file written objections to an assessment or classification with the county assessor and if any such objections are filed they shall be presented to the board of review at its meeting by the county assessor for its consideration.

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Sec. 38. Minnesota Statutes 1986, section 274.14, is amended to read:

274.14 LENGTH OF SESSION; RECORD.

The county board of equalization or the special board of equalization appointed by it ~~may continue in session and adjourn from time to time commencing on the first Monday following the fourth day of July or, if the first Monday following the fourth day of July is a legal holiday, the first Tuesday following the fourth day of July and ending on or before the tenth following working day; when it shall adjourn and no action taken subsequent to the day of adjournment shall be valid unless a longer session period is approved by the commissioner of revenue~~ meet during the last two weeks in June. The commissioner may extend the session period to ~~August 10~~ July 15 but no action taken by the county board of review after the extended termination date shall be valid. The county auditor shall keep an accurate record of the proceedings and orders of the board, which record shall be published in the same manner as other proceedings of county commissioners. A copy of ~~such~~ the published record ~~shall~~ must be transmitted to the commissioner of revenue, with the abstract of assessment required by section 274.16.

Sec. 39. Minnesota Statutes 1986, section 274.16, is amended to read:

274.16 CORRECTED LISTS, ABSTRACTS.

The county assessor or, in Ramsey county, the official designated by the board of county commissioners shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly, in the real or personal lists, or both, and shall make duplicate abstracts of the same; one shall be filed in the assessor's office, and one shall be forwarded to the commissioner of revenue ~~on or before August 1~~ as provided in section 270.11, subdivision 2.

Sec. 40. Minnesota Statutes 1986, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, and school districts shall be certified by the proper authorities to the county auditor on or before October 10 in each year. If a city, town, county, school district or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue before October 10 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension. For 1988 only, the commissioner may extend the certification time to November 7 if the requirements of this subdivision are met.

Sec. 41. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

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Subd. 9. **LEVY REDUCTIONS; TACONITE.** (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections 294.21 to 294.26; 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; 477A.15; and any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties, or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the ~~equalization aid review committee~~ commissioner. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by subdivision 11a, and the community service levy authorized by subdivision 8, the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to subdivision 11a and for community services pursuant to subdivision 8. The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

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(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections 294.21 to 294.26; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; or any law imposing a tax on severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties; and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986, the amount required to be subtracted from the previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 42. Minnesota Statutes 1986, section 275.125, subdivision 9b, is amended to read:

Subd. 9b. **OPERATING DEBT LEVY.** (1) Each year, a district may make an additional levy to eliminate a deficit in the net unappropriated operating funds of the district, determined as of June 30, 1983, and certified and adjusted by the commissioner. This levy may in each year be an amount not to exceed the amount raised by a levy of 1.5 mills times the adjusted assessed valuation of the district for the preceding year as determined by the ~~equalization aid review committee~~ commissioner. However, the total amount of this levy for all years it is made shall not exceed the lesser of (a) the amount of the deficit in the net unappropriated operating funds of the district as of June 30, 1983, or (b) the amount of the aid reduction, according to Laws 1981, Third Special Session chapter 2, article 2, section 2, but excluding clauses (l), (m), (n), (o), and (p), and Laws 1982, Third Special Session chapter 1, article 3, section 6, to the district in fiscal year 1983. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district which levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.03, subdivision 1 or 3 in that same year.

Sec. 43. Minnesota Statutes 1986, section 275.125, subdivision 15, is amended to read:

Subd. 15. **ADJUSTMENTS.** If any school district levy is found to be excessive as a result of a decision of the tax court or a redetermination by the ~~equalization aid review committee~~ commissioner of revenue under section 124.2131, subdivisions 2 to 11 or for any other reason, the amount of the excess shall be

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deducted from the levy certified in the next year for the same purpose; provided that if no levy is certified in the next year for the same purpose or if the amount certified is less than the amount of the excess, the excess shall be deducted from that levy and the levy certified pursuant to section 124A.03, subdivision 1. If any aid entitlement pursuant to sections 124.225, 124.245, and 124A.02 would have been increased in a prior year as a result of a decision of the tax court or a redetermination by the ~~equalization aid review committee~~ commissioner, the amount of the increase shall be added to the current aid entitlement for the same purposes.

Sec. 44. Minnesota Statutes 1986, section 276.11, is amended to read:

276.11 WHEN TREASURER SHALL PAY FUNDS FROM MARCH AND MAY SETTLEMENTS.

Subdivision 1. **GENERALLY.** As soon as practical after the March and May settlements the county treasurer shall pay over to the state treasurer or the treasurer of any town, city, school district, or special district, on the warrant of the county auditor, all receipts arising from taxes levied by and belonging to the state, or to such municipal corporation, or other body, and deliver up all orders and other evidences of indebtedness of such municipal corporation or other body, taking triplicate receipts therefor. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its reception to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall preserve the receipt in the clerk's office. Upon written request of the state, a municipal corporation or other public body, the county treasurer shall, to the extent practicable, make partial payments of amounts collected periodically in advance of the next settlement and distribution. Accompanying each payment shall be a statement prepared by the county treasurer designating the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties thereon. The county treasurer shall pay, upon written request of the state, a municipal corporation or other public body except school districts, at least 70 percent of the estimated collection within 30 days after the March and May settlement dates. Within seven business days after the due date, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district and the remaining 50 percent of the estimated collections shall be paid to the treasurer of the school district within the next seven business days. The treasurer shall pay the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the March and May settlement dates, provided, however, that after 45 days interest shall accrue at a rate of eight percent per annum to the credit of and shall be paid to the state, municipal corporation or other body. Interest shall be payable upon appropriation from the general revenue fund of the county and, if not paid, may be recovered by the state, municipal corporation, or other body, in a civil action.

Subd. 2. **DEFINITION.** For purposes of this section and section 276.111,

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"estimated collections" includes estimated collections of taxes and special assessments, and penalties and interest due to the taxing district.

Subd. 3. APPEAL. The treasurer or other appropriate fiscal officer of a town, city, school district, or special district may appeal to the county board the determination of the amount of estimated collections by the county treasurer under this section or section 276.111. If the county board finds that the amount of estimated collections has been determined by the county treasurer incorrectly, resulting in underpayment to the local taxing districts, it shall order the county treasurer to pay the additional amount necessary to comprise the correct estimated collection amount.

Sec. 45. [276.19] UNCLAIMED OVERPAYMENTS.

Subdivision 1. NOTICE OF OVERPAYMENT. If an overpayment of property tax arises on a parcel for any reason, the responsible county official shall promptly notify the payer by regular mail that the overpayment has occurred. The notice must state the amount of overpayment and identify the parcel on which the overpayment occurred. The notice must also instruct the payer how to claim the overpayment and advise that the overpayment is subject to forfeiture under this section. If the name or address of the payer is not known, the notice of unclaimed overpayment must be mailed to the taxpayer of record in the office of the county auditor.

Subd. 2. FAILURE TO CLAIM REFUND. If the person entitled to the refund fails to claim the overpayment within three years after the date of overpayment, the county auditor shall cause notice to be published at least once in an English language newspaper of general circulation in the county. The county board shall designate the newspaper of publication that in the judgment of the board is most likely to be read by the claimants, notwithstanding any law to the contrary. The published notice must be called "Notice of unclaimed property tax refunds." The notice must contain:

(1) the names in alphabetical order and last known addresses, if any, of persons listed in the notice that may be entitled to unclaimed property tax refund;

(2) a statement that information concerning the amount of overpayment and affected property may be obtained from the county auditor at the address given in the notice; and

(3) a statement that if proof of claim is not presented to the county auditor within 90 days from the date of publication of notice, the overpayment will be considered abandoned and all claims to property tax overpayment will be forfeited.

The county auditor is not required to include and publish in the notice any item of less than \$25 overpaid on a parcel.

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Subd. 3. DISTRIBUTION OF REFUNDS. If the person entitled to the refund fails to claim the overpayment within the time provided in this section, the county auditor shall distribute the refund to the affected taxing districts in proportion to the amount of their respective taxes included in the levy for the tax year overpaid. At the option of the county auditor, the overpayment may be distributed to the affected taxing districts in proportion to the current tax year levy.

Subd. 4. APPLICABILITY. Sections 345.31 to 345.60 do not apply to unclaimed property tax refunds, overpayments, and warrants.

Sec. 46. Minnesota Statutes 1986, section 277.01, is amended to read:

277.01 WHEN TAX IS DELINQUENT; PENALTY.

Subdivision 1. All unpaid personal property taxes where the amount is \$40 \$50 or less shall be deemed delinquent on the later of March 1 next after they become due or 30 days after the postmark date on the envelope containing the property tax statement, and thereupon a penalty of eight percent shall attach and be charged upon all such taxes. When the amount of such tax exceeds the sum of \$40 \$50 the first half shall become delinquent if not paid prior to March 1 or 30 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach on such unpaid first half. The second half of a tax in excess of \$40 \$50 shall become delinquent if not paid prior to July 1 and thereupon a penalty of eight percent shall attach on such unpaid second half. This section shall not apply to class 2a property.

A county may provide by resolution that in the case of a property owner that has multiple personal property tax statements with the aggregate taxes exceeding \$50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 277.011 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 47. Minnesota Statutes 1986, section 278.05, subdivision 4, is amended to read:

Subd. 4. SALES RATIO STUDIES AS EVIDENCE. The sales ratio studies published by the department of revenue, or any part of the studies, or any copy of the studies or records accumulated to prepare the studies which is prepared by the commissioner of revenue ~~for the equalization aid review committee~~ for use in determining school aids shall be admissible in evidence as a public record

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without the laying of a foundation if the sales prices used in the study are adjusted for the terms of the sale to reflect market value and are adjusted to reflect the difference in the date of sale compared to the assessment date. Additional evidence relevant to the sales ratio study is also admissible. No sales ratio study received into evidence shall be conclusive or binding on the court and evidence of its reliability or unreliability may be introduced by any party including, but not limited to, evidence of inadequate adjustment of sale prices for terms of financing, inadequate adjustment of sales prices to reflect the difference in the date of sale compared to the assessment date, and inadequate sample size.

No reduction in value on the grounds of discrimination shall be granted on the basis of a sales ratio study published by the department of revenue unless

(a) the sales prices are adjusted for the terms of the sale to reflect market value,

(b) the sales prices are adjusted to reflect the difference in the date of sale compared to the assessment date, and

(c) there is an adequate sample size.

Sec. 48. Minnesota Statutes 1986, section 279.01, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, on May 16, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of seven percent on nonhomestead property, except that this penalty shall not accrue until June 1 of each year on commercial use real property used for seasonal residential recreational purposes and classified as class 1c or 6a, and on other commercial use real property classified as class 3a, provided that over 60 percent of the gross income earned by the enterprise on the class 3a property is earned during the months of May, June, July, and August. Any property owner of such class 3a property who pays the first half of the tax due on the property after May 15 and before June 1 shall attach an affidavit to the payment attesting to compliance with the income provision of this subdivision. Thereafter, for both homestead and nonhomestead property, on the 16th day of each month, up to and including October 16 following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes. When the taxes against any tract or lot exceed \$50, one-half thereof may be paid prior to May 16; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to October 16 following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on nonhomestead property. Thereafter, for homestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for nonhomestead property, on the 16th day of each month

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up to and including December 16 following, an additional penalty of four percent for each month shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to May 16, the same may be paid at any time prior to October 16, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until October 16 following; provided, also, that the same may be paid in installments as follows: One-fourth prior to March 16; one-fourth prior to May 16; one-fourth prior to August 16; and the remaining one-fourth prior to October 16, subject to the aforesaid penalties. Where the taxes delinquent after October 16 against any tract or parcel exceed \$100, upon resolution of the county board, they may be paid in installments of not less than 25 percent thereof, together with all accrued penalties and costs, up to the next tax judgment sale, and after such payment, penalties, interest, and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver or countersign any receipt for any such taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such penalties.

A county may provide by resolution that in the case of a property owner that has multiple tracts or parcels with aggregate taxes exceeding \$50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 278.03 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 49. Minnesota Statutes 1986, section 282.014, is amended to read:

282.014 COMPLETION OF SALE AND CONVEYANCE.

Upon compliance by the purchaser with the provisions of sections 282.011 to 282.015 and with the terms and conditions of the sale, and upon full payment for the land, plus a ~~\$10~~ \$20 fee in addition to the sale price, the sale shall be complete and a conveyance of the land shall be issued to the purchaser as provided by the appropriate statutes according to the status of the land upon forfeiture.

The conveyance must be forwarded to the county recorder who shall record the conveyance before the auditor issues it to the purchaser.

Sec. 50. Minnesota Statutes 1986, section 282.02, is amended to read:

282.02 LIST OF LANDS OFFERED FOR SALE.

Immediately after classification and appraisal of the land, and after approval by the commissioner of natural resources when required pursuant to section

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282.01, subdivision 3, the county board shall provide and file with the county auditor a list of parcels of land to be offered for sale. This list shall contain a description of the parcels of land and the appraised value thereof; ~~provided that the description and appraised value may be omitted in the discretion of the county board.~~ The auditor shall publish a notice of the ~~forfeiture and~~ intended public sale of such parcels of land and a copy of the resolution of the county board fixing the terms of the sale, if other than for cash only, by publication once a week for two weeks in the official newspaper of the county, the last publication to be not less than ten days previous to the commencement of the sale.

A notice in substantially the following form shall be sufficient:

"Notice is hereby given that I shall sell to the highest bidder, at my office in the courthouse in the city of _____, in the county of _____, the following described parcels of land forfeited to the state for nonpayment of taxes which have been classified and appraised as provided by law. Such sale will be governed, as to terms, by the resolution of the county board authorizing the same, and commence at _____ o'clock a.m., on the _____ day of _____, 19_____.

Description	Appraised value			
Subdivision	Sec.	Twp.	Range	\$
or	or			
Lot	Block			

Given under my hand and seal this ____ day of _____, 19__.

County Auditor,
_____ County, Minnesota."

The notice shall include the parcel's description and appraised value. The notice shall also indicate the amount of any special assessments which may be the subject of a reassessment or new assessment or which may result in the imposition of a fee or charge pursuant to sections 429.071, subdivision 4, 435.23, and 444.076. The county auditor shall also mail notice to the owners of land adjoining the parcel to be sold and to the owners of platted or unplatted land whose boundaries are within 300 feet of the boundaries of a parcel offered for sale having an appraised value of \$1,000 or more. For purposes of this section, "owner" means the taxpayer as listed in the records of the county auditor.

If the county board of St. Louis or Koochiching counties determines that the sale shall take place in a county facility other than the courthouse, the notice shall specify the facility and its location.

Sec. 51. Minnesota Statutes 1986, section 282.241, is amended to read:

282.241 REPURCHASE AFTER FORFEITURE FOR TAXES.

The owner at the time of forfeiture or the owner's heirs, devisees, or repre-

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sentatives, or any person to whom the right to pay taxes was given by statute, mortgage, or other agreement, may repurchase any parcel of land claimed by the state to be forfeited to the state for taxes unless prior to the time repurchase is made such parcel shall have been sold under installment payments, or otherwise, by the state as provided by law, or is under mineral prospecting permit or lease, or proceedings have been commenced by the state or any of its political subdivisions or by the United States to condemn such parcel of land. Said parcel of land may be repurchased for a sum equal to the aggregate of all delinquent taxes and assessments computed as provided by section 282.251, together with penalties, interest, and costs, which did or would have accrued if such parcel of land had not forfeited to the state. Except for property which was homesteaded on the date of forfeiture, such repurchase shall be permitted during one year only from the date of forfeiture, and in any case only after the adoption of a resolution by the board of county commissioners determining that thereby undue hardship or injustice resulting from the forfeiture will be corrected, or that permitting such repurchase will promote the use of such lands that will best serve the public interest; ~~provided further such~~. If the county board has good cause to believe that a repurchase installment payment plan for a particular parcel is unnecessary and not in the public interest, the county board may require as a condition of repurchase that the entire repurchase price be paid at the time of repurchase. A repurchase shall be subject to any easement, lease or other encumbrance granted by the state prior thereto, and if said land is located within a restricted area established by any county under Laws 1939, Chapter 340, such repurchase shall not be permitted unless said resolution with respect thereto is adopted by the unanimous vote of the board of county commissioners.

Sec. 52. Minnesota Statutes 1986, section 282.33, subdivision 1, is amended to read:

Subdivision 1. Whenever an unrecorded deed from the state of Minnesota conveying tax-forfeited lands shall have been lost or destroyed, an application, in form approved by the attorney general, for a new deed may be made by the grantee or the grantee's successor in interest to the commissioner of revenue. If it appears to the commissioner of revenue that the facts stated in the petition are true, the commissioner shall issue a new deed to the original grantee, in form approved by the attorney general, with like effect as the original deed. The commissioner shall send the new deed to the county recorder, who after recording the deed will forward it to the county auditor. The application shall be accompanied by a fee of ~~\$10~~ \$20, payable to the commissioner of revenue, which shall be deposited with the state treasurer and credited to the general fund.

Sec. 53. Minnesota Statutes 1986, section 473F.02, subdivision 12, is amended to read:

Subd. 12. "Market value" of real property within a municipality means the "actual market value" of real property within the municipality, determined in the manner and with respect to the property described for school districts in

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section 475.53, subdivision 4, except that no adjustment shall be made for property on which taxes are paid into the state treasury under gross earnings tax laws applicable to common carrier railroads. For purposes of sections 473F.01 to 473F.13, the equalization aid review committee commissioner of revenue shall annually make determinations and reports with respect to each municipality which are comparable to those it makes for school districts under section 124.2131, subdivision 1, in the same manner and at the same times as are prescribed by the subdivision. The commissioner of revenue shall annually determine, for each municipality, information comparable to that required by section 475.53, subdivision 4, for school districts, as soon as practicable after it becomes available. The commissioner of revenue shall then compute the market value of property within each municipality.

Sec. 54. Minnesota Statutes 1986, section 475.53, subdivision 4, is amended to read:

Subd. 4. **SCHOOL DISTRICTS.** Except as otherwise provided by law, no school district shall be subject to a net debt in excess of ten percent of the actual market value of all taxable property and of exempt property referred to in section 275.49, situated within its corporate limits, as computed in accordance with this subdivision. The county auditor of each county containing taxable real or personal property situated within any school district shall certify to the district upon request the market value of all such property. The county auditor of each county containing exempt property referred to in section 275.49, situated within any school district, shall certify to the district upon request the total market value of all such property as determined under section 275.49. The commissioner of revenue shall certify to the district upon request the market value of railroad property within the district as most recently determined under section 270.87. Whenever the state equalization aid review committee commissioner of revenue, in accordance with section 124.2131, subdivision 1, has determined that the assessed valuation of any district furnished by county auditors is not based upon the market value of taxable property in the district, the commissioner of revenue shall certify to the district upon request the ratio most recently ascertained to exist between such value and the actual market value of property within the district. The actual market value of property within a district, on which its debt limit under this subdivision is based, is (a) the value certified by the county auditors and, where applicable, by the commissioner of revenue under section 270.87, or (b) this value divided by the ratio certified by the commissioner of revenue, whichever results in a higher value.

Sec. 55. **REPEALER.**

(a) Minnesota Statutes 1986, section 124.38, subdivision 10, is repealed.

(b) Minnesota Statutes 1986, section 282.021, is repealed.

Sec. 56. **EFFECTIVE DATE.**

Section 2 is effective August 1, 1987.

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Sections 1, 3 to 17, 26, 30, 33, 34, 41 to 43, 47, 53, 54, and 55, paragraph (a), are effective the day following final enactment, except that paragraph (c) of section 3 is effective for the calculation of 1987 adjusted assessed values and thereafter. Sections 27, 46, 48 to 52, and 55, paragraph (b), are effective July 1, 1987. Section 44 is effective for taxes paid after July 31, 1987. Sections 18 to 22, 24, 29, 31, and 35 to 40, are effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter, except that the changes in references in section 21 from the equalization aid review committee to the commissioner are effective the day following final enactment, and the recodification of the local board of review's powers contained in section 37, clause (c), is effective the day after final enactment. Section 25 is effective for claims filed after July 1, 1987. Section 32 is effective for the 1989 assessment and thereafter, and taxes payable in 1990 and thereafter. Section 45 is effective for property tax overpayments unclaimed on or after the day of final enactment.

ARTICLE 8

TAX EXEMPT PROPERTY

Section 1. Minnesota Statutes 1986, section 272.01, subdivision 2, is amended to read:

Subd. 2. (a) When any real or personal property which for any reason is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.

(b) The tax imposed by this subdivision shall not apply to (1) property leased or used by way of a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 458C, municipal auditorium, ~~airport owned by a city, town, county or group thereof but not the metropolitan airports commission,~~ municipal museum or municipal stadium or (2) property constituting or used as a public pedestrian ramp, ~~or~~ concourse, ~~passenger check-in area or ticket sale counter, boarding area or luggage claim area in connection with a public airport; provided that real estate which is owned by a municipality in connection with the operation of a public airport and which is leased or used for agricultural purposes shall not be exempt.~~

(c) Taxes imposed by this subdivision shall be due and payable as in the case of personal property taxes and such taxes shall be assessed to such lessees or users of real or personal property in the same manner as taxes assessed to owners of real or personal property, except that such taxes shall not become a

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lien against the property. When due, the taxes shall constitute a debt due from the lessee or user to the state, township, city, county and school district for which the taxes were assessed and shall be collected in the same manner as personal property taxes. If property subject to the tax imposed by this subdivision is leased or used jointly by two or more persons, each lessee or user shall be jointly and severally liable for payment of the tax.

Sec. 2. Minnesota Statutes 1986, section 272.01, subdivision 3, is amended to read:

Subd. 3. The provisions of subdivision 2 shall not apply to:

(a) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(b) Real estate exempt from ad valorem taxes and taxes in lieu thereof which is leased, loaned, or otherwise made available to telephone companies or electric, light and power companies upon which personal property consisting of transmission and distribution lines is situated and assessed pursuant to sections 273.37, 273.38, 273.40 and 273.41, or upon which are situated the communication lines of express, railway, telephone or telegraph companies, and pipelines used for the transmission and distribution of petroleum products;

(c) Property presently owned by any educational institution chartered by the territorial legislature;

~~(d) Inventories of raw materials, work in process and finished goods and machinery and equipment owned by the federal government and leased, loaned or otherwise made available and used by private individuals, associations or corporations in connection with the production of goods for sale to the federal government;~~

~~(e) Indian lands;~~

~~(f) (e)~~ Property of any corporation organized as a tribal corporation under the Indian Reorganization Act of June 18, 1934, (Statutes at Large, volume 48, page 984);

~~(g) (f)~~ Real property owned by the state and leased pursuant to section 161.23 and acts amendatory thereto;

~~(h) (g)~~ Real property owned by a seaway port authority on June 1, 1967 upon which there has been constructed docks, warehouses, tank farms, administrative and maintenance buildings, railroad and ship terminal facilities and other maritime and transportation facilities or those directly related thereto, together with facilities for the handling of passengers and baggage and for the handling of freight and bulk liquids, and personal property owned by a seaway port authority used or usable in connection therewith, when said property is leased to a private individual, association or corporation, but only when such lease provides that the said facilities are available to the public for the loading

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and unloading of passengers and their baggage and the handling, storage, care, shipment and delivery of merchandise, freight and baggage and other maritime and transportation activities and functions directly related thereto, but not including property used for grain elevator facilities; it being the declared policy of this state that such property when so leased is public property used exclusively for a public purpose, notwithstanding the ~~three~~ one year limitation in the provisions of section 273.19.

(i) ~~(h)~~ Notwithstanding the provisions of clause ~~(h)~~ (g), when the annual rental received by a seaway port authority in any calendar year for such leased property exceeds an amount reasonably required for administrative expense of the authority per year, plus promotional expense for the authority not to exceed the sum of \$100,000 per year, to be expended when and in the manner decided upon by the commissioners, plus an amount sufficient to pay all installments of principal and interest due, or to become due, during such calendar year and the next succeeding year on any revenue bonds issued by the authority, plus 25 percent of the gross annual rental to be retained by the authority for improvement, development or other contingencies, the authority shall make a payment in lieu of real and personal property taxes of a reasonable portion of the remaining annual rental to the county treasurer of the county in which such seaway port authority is principally located. Any such payments to the county treasurer shall be disbursed by the treasurer on the same basis as real estate taxes are divided among the various governmental units, but if such port authority shall have received funds from the state of Minnesota and funds from any city and county pursuant to Laws 1957, chapters 648, 831 and 849 and acts amendatory thereof, then such disbursement by the county treasurer shall be on the same basis as real estate taxes are divided among the various governmental units, except that the portion of such payments which would otherwise go to other taxing units shall be divided equally among the state of Minnesota and said county and city.

Sec. 3. Minnesota Statutes 1986, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity except parcels of property containing structures and the structures assessed as class 7(a), (b), (c), or (d);

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(7) All public property exclusively used for any public purpose;

(8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d) shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Real and personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, other than real property used primarily as a solid waste disposal site.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains,

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except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1982, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8, and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and and

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(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band; and

(c) a facility at which a licensed Minnesota manufacturer produces distilled spirituous liquors, liqueurs, cordials, or liquors designated as specialties regardless of alcoholic content, but not including ethyl alcohol, distilled with a majority of the ingredients grown or produced in Minnesota.

An exemption provided by paragraph (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

Sec. 4. Minnesota Statutes 1986, section 273.19, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3 or 4, property held under a lease for a term of ~~three or more years~~ at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, when the property belongs to the United States, to the state, or to any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or to any railroad company or other corporation whose property is not taxed in the same manner as other property, or when the property is school or other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same. This subdivision does not apply to property exempt from taxation under section 272.01, subdivision 2, clause (b)(2).

Sec. 5. Minnesota Statutes 1986, section 273.19, is amended by adding a subdivision to read:

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Subd. 1a. For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.

Sec. 6. Minnesota Statutes 1986, section 273.19, subdivision 3, is amended to read:

Subd. 3. The assessed value of property held under a lease for a term of ~~three or more years~~ at least one year which (i) is located within a federal reservation; (ii) has been conveyed to the state of Minnesota by the federal government; and (iii) had been occupied and used by a branch of the armed services of the United States, shall be no greater than the value added to the property by improvements to the property made by the lessee.

Sec. 7. Minnesota Statutes 1986, section 273.19, subdivision 4, is amended to read:

Subd. 4. Property held under a lease for a term of ~~three or more years~~ at least one year which is owned by the United States and located within a national park shall be exempt, provided the property was acquired by the United States by condemnation or purchased by the United States under threat of condemnation, and within a reasonable time leased back for noncommercial residential purposes to the person owning the property at the time of acquisition by the United States. If property exempt under this subdivision is subsequently leased or subleased for a term of ~~three or more years~~ at least one year to another person, it shall no longer qualify for the exemption provided in this subdivision and shall be placed on the assessment rolls as provided in section 272.02, subdivision 4, and taxed pursuant to subdivision 1 of this section.

The value of improvements made to property otherwise exempt pursuant to this subdivision which are owned by the lessee or to which the lessee has salvage rights shall be taxable to the lessee pursuant to subdivision 1.

Sec. 8. REPEALER.

Minnesota Statutes 1986, section 297A.254 is repealed.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 7 are effective beginning for property taxes assessed in 1987 and payable in 1988.

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ARTICLE 9

MINERALS

Section 1. Minnesota Statutes 1986, section 16A.26, is amended to read:

16A.26 ONE DEPOSITORY ACCOUNT FOR EACH TAX.

Notwithstanding sections 290.361, 297.13, 298.17, 298.282, 298.39, 298.396, ~~298.51, 298.64, 298.65,~~ 297C.02 to 297C.08 and similar laws to the contrary relating to the depositing, disposition, or apportionment of tax receipts, the commissioner may use one depository account for each tax. To do so, there must be enough information to identify and dispose of or apportion the tax under law. The commissioner shall ask the appropriate officials for the transfers and necessary certifications. The commissioner may issue directives to carry out this section.

Sec. 2. Minnesota Statutes 1986, section 121.904, subdivision 11a, is amended to read:

Subd. 11a. ~~Beginning with payments received in fiscal year 1978,~~ Revenues received pursuant to sections ~~294.21 to 294.28; 29;~~ 298.23 to 298.28; 298.32; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67;~~ or any law imposing a tax on severed mineral values ~~or any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties;~~ shall be recognized as revenue in the school year received.

Sec. 3. Minnesota Statutes 1986, section 121.904, subdivision 11b, is amended to read:

Subd. 11b. (1) Each district affected by the provisions of subdivision 11a shall account for and expend according to the provisions of this subdivision the total amount by which its 1976 payable 1977 and its 1977 payable 1978 permissible levies pursuant to sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 275.125 were reduced on account of payments pursuant to Minnesota Statutes 1976, sections 294.21 or 294.28; 298.23 to 298.28; 298.32; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties. Notwithstanding the provisions of section 124A.035, subdivision 5, clause (2) and the provisions of section 275.125, subdivision 9, clause (2) or any other law to the contrary, this total amount shall not be applied to reduce the foundation aid which the district is entitled to receive pursuant to section 124A.02 or again be applied to reduce the permissible levies of the district.

(2) The lesser of the amount in (1) or an amount equal to \$200 times the pupil units in the district computed pursuant to section 124.17 for the 1977-1978 school year shall be reflected in an "appropriated fund balance reserve

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account for current use of taconite payments" which shall be established in the general fund. Each school year, beginning in 1978-1979, each affected district shall transfer an amount equal to \$20 times the number of pupil units in the district in 1977-1978 out of this account into other operating accounts in the general fund, until the amount transferred equals the amount originally reflected in the reserve account; provided that in the last year in which the district is required to make this transfer, it shall transfer the balance of the reserve account, not to exceed an amount equal to \$20 times the number of pupil units in the district in 1977-1978. Notwithstanding the provisions of section 121.917, each affected district may use the amount so transferred each year to increase its expenditures above the amount it would otherwise be authorized to expend in that school year.

(3) Of the amount in (1), any amount not reflected in the account established pursuant to clause (2) shall be reflected in the district's appropriated fund balance reserve account for purposes of reducing statutory operating debt, if the district has established this account pursuant to section 275.125, subdivision 9a. The June 30, 1977 statutory operating debt of the district shall be reduced by the amount so reflected and shall be recertified accordingly by the commissioner.

(4) Notwithstanding the provisions of section 121.912, any portion of the amount in (1) remaining after the application of clauses (2) and (3) shall be transferred to the district's capital expenditure fund; provided that before July 1, 1979 not exceeding \$75,000 of the amount transferred to the capital expenditure fund pursuant to this clause may be transferred to the district's general fund.

Sec. 4. Minnesota Statutes 1986, section 124.195, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** (a) The term "other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 124.09, apportionments by the county auditor pursuant to section 124.10, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to ~~sections 294.21 to 294.26~~ and chapter 298.

(b) The term "cumulative amount guaranteed" means the sum of the following:

(1) one-third of the final adjustment payment according to subdivision 6; plus

(2) the product of

(i) the cumulative disbursement percentage shown in subdivision 3; times

(ii) the sum of

85 percent of the estimated aid and credit entitlements paid according to subdivision 10; plus

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100 percent of the entitlements paid according to subdivisions 8 and 9; plus the other district receipts; plus the final adjustment payment according to subdivision 6.

Sec. 5. Minnesota Statutes 1986, section 124A.035, subdivision 5, is amended to read:

Subd. 5. **TACONITE DEDUCTIONS.** (1) Notwithstanding any provisions of any other law to the contrary, the adjusted assessed valuation used in calculating foundation aid shall include only that property which is currently taxable in the district.

(2) For districts which received payments under sections ~~294.21 to 294.26; 29; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67;~~ any law imposing a tax upon severed mineral values, ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties~~ or recognized revenue pursuant to section 477A.15; the foundation aid shall be reduced in the October adjustment payment by the difference between the dollar amount of the payments received pursuant to those sections, or revenue recognized pursuant to section 477A.15 in the fiscal year to which the October adjustment is attributable and the amount which was calculated, pursuant to section 275.125, subdivision 9, as a reduction of the levy attributable to the fiscal year to which the October adjustment is attributable. If the October adjustment of a district's foundation aid for a fiscal year is a negative amount because of this clause, the next fiscal year's foundation aid to that district shall be reduced by this negative amount in the following manner: there shall be withheld from each monthly scheduled foundation aid payment due the district in such fiscal year, 15 percent of the total negative amount, until the total negative amount has been withheld. The amount reduced from foundation aid pursuant to this clause shall be recognized as revenue in the fiscal year to which the October adjustment payment is attributable.

Sec. 6. Minnesota Statutes 1986, section 270.80, subdivision 2, is amended to read:

Subd. 2. "Railroad company" means:

(1) any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota; or

(2) any company owning or operating, other than as a common carrier, a railway principally used for transportation of taconite concentrates from the plant at which the taconite concentrates are produced in shipping form to a point of consumption or port for shipment beyond the state; or

(3) any company that produces concentrates from taconite and transports that taconite in the course of the concentrating process and before the concentrating process is completed to a concentrating plant located within the state

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over a railroad that is not a common carrier and shall not use a common carrier or taconite railroad company as defined in clause (2) of this section for the movement of the concentrate to a point of consumption or port for shipment beyond the state.

Sec. 7. Minnesota Statutes 1986, section 273.12, is amended to read:

273.12 ASSESSMENT OF REAL PROPERTY.

It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to every element and factor affecting the market value thereof, including its location with reference to roads and streets and the location of roads and streets thereon or over the same, and to take into consideration a reduction in the acreage of each tract or lot sufficient to cover the amount of land actually used for any improved public highway and the reduction in area of land caused thereby, provided, that in determining the market value of vacant land, the fact that such land is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the assessment of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, the assessed value of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment. It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to lands which are comparable in character, quality, and location, to the end that all lands similarly located and improved will be assessed upon a uniform basis and without discrimination and, for agricultural lands, to consider and give recognition to its earning potential as measured by its free market rental rate.

Notwithstanding the provisions of this or any other section, no additional value shall be assessed for unmined mineral value except for iron ore or taconite.

Sec. 8. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

Subd. 9. **LEVY REDUCTIONS; TACONITE.** (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections ~~294.21 to 294.26; 29;~~ 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67; 477A.15;~~ and any law imposing a tax upon severed mineral values, ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties;~~ or recognized revenue pursuant to section 477A.15; shall not include

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a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the equalization aid review committee. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by ~~subdivision~~ subdivisions 11a, 11c, 12, and 12a, and the community service levy authorized by ~~subdivision~~ subdivisions 8 and 8b, the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to ~~subdivision~~ subdivisions 11a, 11c, 12, and 12a, and for community services pursuant to ~~subdivision~~ subdivisions 8 and 8b. The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections ~~294.21 to 294.26; 29; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67;~~ or any law imposing a tax on severed mineral values; ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties;~~ and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this

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subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986 and 1987, the amount required to be subtracted from the previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 9. Minnesota Statutes 1986, section 275.51, subdivision 3i, is amended to read:

Subd. 3i. **LEVY LIMITATION.** The levy limitation for a governmental subdivision shall be equal to the adjusted levy limit base determined pursuant to subdivision 3h, reduced by (a) the total amount of local government aid that the governmental subdivision has been certified to receive pursuant to sections 477A.011 to 477A.014; (b) taconite aids pursuant to sections 298.28 and 298.282 including any aid received in the levy year which was required to be placed in a special fund for expenditure in the next succeeding year; (c) state reimbursements for wetlands and native prairie property tax exemptions pursuant to sections 273.115, subdivision 3 and 273.116, subdivision 3; ~~and~~ (d) payments in lieu of taxes to a county pursuant to section 477A.12 which are required to be used to provide property tax levy reduction certified to be paid in the calendar year in which property taxes are payable; and (e) payments from the proceeds of the net proceeds tax under section 29. If the sum of the taconite aids deducted exceeds the adjusted levy limit base, the excess must be used to reduce the amounts levied as special levies pursuant to section 275.50, subdivisions 5 and 7. The commissioner of revenue shall notify a governmental subdivision of any excess taconite aids to be used to reduce special levies.

As provided in section 298.28, one cent per taxable ton of the amount distributed under section 298.28, subdivision 5, paragraph d shall not be deducted from the levy limit base of the counties that receive that aid. The resulting figure is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

For taxes levied in 1987 and subsequent years, the levy limit for a county as calculated under paragraph (b) shall be decreased by an additional amount equal to the reduction in the distribution to the county under section 298.28, from the 1986 distribution to the 1987 distribution.

Sec. 10. Minnesota Statutes 1986, section 287.09, is amended to read:

287.09 MORTGAGE ON EXEMPT PROPERTY; PROPERTY NOT DIRECTLY TAXED; RECEIPT; APPORTIONMENT OF TAX.

When ~~any~~ real estate ~~situate in this state and described in any such a~~ mortgage is exempt from taxation under the Constitution of the state of Minnesota, article 10, section 1, the mortgage registry tax ~~herein provided~~ shall be paid

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to the treasurer of the county in which ~~such the~~ the real estate is ~~situate~~ located in the same manner as if ~~such the~~ the real estate ~~was were~~ not exempt from taxation. When any real estate ~~situate in this state and~~ described in ~~such a~~ a mortgage is not exempt from taxation under ~~such that~~ that section, but is not taxed by direct tax upon the assessed valuation thereof, ~~then the mortgage registry tax herein provided shall be paid to the county; this sentence does not apply to~~ real estate taxed under sections 298.23 to 298.28; ~~relating to taconite and taconite operations or under sections 294.21 to 294.28; relating to railroads transporting taconite or taconite concentrates other than as a common carrier; shall not be considered to be real estate not taxed by direct tax upon the assessed valuation thereof within the meaning of this section.~~

Sec. 11. Minnesota Statutes 1986, section 290.92, subdivision 6, is amended to read:

Subd. 6. **RETURNS, DEPOSITS.** (1)(a) **RETURNS.** Every employer who is required to deduct and withhold tax under subdivision 2a or 3 and every person required to deduct and withhold tax under section 21, subdivision 2, shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return, but no extension shall be granted for more than six months.

(b) **ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.** (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3, or under section 21, subdivision 2, exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer, or person withholding tax under section 21, subdivision 2, shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th

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day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

(c) **OTHER METHODS.** The commissioner may by rule prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify ~~employers~~ payors according to the amount of their tax liability and may adopt an appropriate reporting period for each class which the commissioner deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year.

(2) If less than the correct amount of tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in the manner and at the times as the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment shall be assessed and collected in the manner and at the times as the commissioner prescribes.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed, or makes and files a false or fraudulent return, the commissioner shall make for the employer a return from the commissioner's own knowledge and from information the commissioner obtains through testimony, or otherwise, and assess a tax on the basis of it. The amount of tax shown on it shall be paid to the commissioner at the times as the commissioner prescribes. Any return or assessment made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect to it.

(4) The commissioner, in any case, on having reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, may immediately assess the tax, whether or not the time otherwise prescribed by law for making and filing the return and paying the tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer, or person withholding tax under section 21, subdivision 2, in the office of the commissioner in accordance with rules prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within 3-1/2 years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

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(7)(a) Except as provided in (b) of this paragraph, every employer, or person withholding tax under section 21, subdivision 2, who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state for the sum or sums (and any added penalties and interest). Any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or 3, or section 21, subdivision 2, shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, or person withholding tax under section 21, subdivision 2, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(8) Upon the failure of any employer, or person required to withhold tax under section 21, subdivision 2, to pay to or deposit with the commissioner, within the time provided by paragraph (1), (2), or (3) of this subdivision, any tax required to be withheld in accordance with the provisions of subdivision 2a or 3, or section 21, subdivision 2, if the commissioner has assessed a tax pursuant to paragraph (4), the tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from the employer. The statement shall also give the address of the employer owing the tax, the period for which the tax is due, the date of the delinquency, and any other information required by the attorney general. The attorney general shall institute legal action in the name of the state to recover the amount of the tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts stated in it and that the amount shown in it is due from the employer named in the statement. If an action is instituted, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding it as security for any judgment which has been or may be recovered. Any action must be brought within five years after the date of assessment of any tax under this subdivision.

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

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(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

(10) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added to it.

Sec. 12. Minnesota Statutes 1986, section 290.92, subdivision 7, is amended to read:

Subd. 7. **WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND TO COMMISSIONER.** (1) Every person required to deduct and withhold from an employee a tax under subdivision 2a or subdivision 3, or section 21, subdivision 2, or who would have been required to deduct and withhold a tax under subdivision 2a or subdivision 3, or persons required to withhold tax under section 21, subdivision 2, determined without regard to subdivision 19, if the employee or payee had claimed no more than one withholding exemption, or who paid wages or made payments not subject to withholding under subdivision 2a or 3, or section 21, subdivision 2, to an employee or person receiving royalty payments in excess of \$600, or who has entered into a voluntary withholding agreement with a payee pursuant to subdivision 20, shall furnish to each such employee or person receiving royalty payments in respect to the remuneration paid by such person to such employee or person receiving royalty payments during the calendar year, on or before January 31 of the succeeding year, or, if employment is terminated before the close of such calendar year, within 30 days after the date of receipt of a written request from the employee if the 30-day period ends before January 31, a written statement showing the following:

(a) Name of such person,

(b) The name of the employee or payee and the employee's or payee's social security account number,

(c) The total amount of wages as that term is defined in subdivision 1(1), and/or the total amount of remuneration subject to withholding pursuant to subdivision 20, and the amount of sick pay as required under section 6051(f) of the Internal Revenue Code of 1954, as amended through December 31, 1985,

(d) The total amount deducted and withheld as tax under subdivision 2a or subdivision 3, or section 21, subdivision 2.

(2) The statement required to be furnished by this subdivision in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the commissioner may prescribe.

(3) The commissioner may prescribe rules providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to furnish such statements to their employees or payees under this subdivision.

(4) A duplicate of any statement made pursuant to this subdivision and in accordance with rules prescribed by the commissioner, along with a reconcilia-

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tion in such form as the commissioner may prescribe of all such statements for the calendar year (including a reconciliation of the quarterly returns required to be filed pursuant to subdivision 6), shall be filed with the commissioner on or before February 28 of the year after the payments were made.

Sec. 13. Minnesota Statutes 1986, section 290.92, subdivision 9, is amended to read:

Subd. 9. **DETERMINATION OF TAX DUE.** The commissioner may grant permission to employers, or persons withholding tax under section 21, subdivision 2, who do not desire to use the withholding tax tables provided in accordance with paragraph (3) of subdivision 2a, or section 21, subdivision 2, to determine the amount of tax to be withheld by use of a method of withholding other than withholding tax tables, provided such method will withhold from each employee or person receiving royalty payments substantially the same amount of tax as would be withheld by use of the withholding tax tables. Employers, or persons withholding tax under section 21, subdivision 2, who desire to determine the amount of tax to be withheld by a method other than by use of the withholding tax tables shall obtain permission from the commissioner before the beginning of a payroll period for which the employer, or person withholding tax under section 21, subdivision 2, desires to withhold the tax by such other method. Applications to use such other method must be accompanied by evidence establishing the need for the use of such method.

Sec. 14. Minnesota Statutes 1986, section 290.92, subdivision 11, is amended to read:

Subd. 11. **REFUNDS.** Where there has been an overpayment of tax imposed by this section, refund of such overpayment or credit shall be made to the employer, or person withholding tax under section 21, subdivision 2, in accordance with rules prescribed by the commissioner, but only to the extent that the amount of such overpayment was not deducted and withheld under subdivision 2a or 3, or section 21, subdivision 2, by the employer or other person subject to withholding. Any overpayment which is refunded shall bear interest at the rate specified in section 270.76, computed from the date of payment until the date the refund is paid to the employer. The commissioner of finance shall cause any such refund of tax and interest to be paid out of the general fund in accordance with the provisions of section 290.62 and so much of said fund as may be necessary is hereby appropriated for that purpose. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

Sec. 15. Minnesota Statutes 1986, section 290.92, subdivision 12, is amended to read:

Subd. 12. **WITHHELD AMOUNT, CREDIT AGAINST TAX.** The amount deducted and withheld as tax under subdivision 2a or subdivision 3, or section 21, subdivision 2, during any calendar year upon the wages of any individual or

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person receiving royalty payments shall be allowed as a credit to the recipient of the income against the taxes imposed by this chapter or by chapter 298, for a taxable year beginning in such calendar year. If more than one taxable year begins in such calendar year, such amount shall be allowed as a credit against the taxes for the last taxable year so beginning.

Sec. 16. Minnesota Statutes 1986, section 290.92, subdivision 13, is amended to read:

Subd. 13. **REFUNDS.** (1) Where the amount of the tax withheld at the source under subdivision 2a or 3, or section 21, subdivision 2, exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the ~~employee~~ taxpayer or imposed upon the ~~employee~~ taxpayer by this chapter, the amount of such excess shall be refunded to the ~~employee~~ taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund that amount. Where any amount of such excess to be refunded exceeds \$10, such amount on the original return shall bear interest at the rate specified in section 270.76, computed from 90 days after (a) the due date of the return of the ~~employee~~ taxpayer or (b) the date on which the return is filed, whichever is later, to the date the refund is paid to the taxpayer. A return shall not be treated as filed until it is in processible form. A return is in processible form when it is filed on a permitted form containing the taxpayer's name, address, social security account number, the required signature, and sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the ~~employee~~ taxpayer within the purview of section 290.46.

(3) The commissioner of finance shall cause any such refund of tax and interest, to be paid out of the general fund in accordance with the provisions of section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Sec. 17. Minnesota Statutes 1986, section 290.92, subdivision 14, is amended to read:

Subd. 14. **RECORDS MUST BE KEPT.** Every person liable for any tax imposed by this section, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules, as the commissioner may from time to time prescribe. Any such return or statement shall include therein the information required by such rules and by the forms prescribed by the commissioner. For the purpose of determining compliance with the provisions of this subdivision, or for the purpose of collection of any taxes due under this section or section 21, the commissioner shall have power to

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examine, or cause to be examined, any books, papers, records, or memoranda relevant to making such determination, whether such books, papers, records, or memoranda are the property of or in the possession of such person or any other person or corporation. The commissioner shall further have power to require the attendance of any persons having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination, and to administer oaths or affirmations.

Sec. 18. Minnesota Statutes 1986, section 290.92, subdivision 18, is amended to read:

Subd. 18. **RETURNS; CONFESSION OF JUDGMENT.** Any return that is required to be filed with the commissioner of revenue under this section or section 21 shall (a) contain a written declaration that it is correct and complete, and (b) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

Sec. 19. Minnesota Statutes 1986, section 290.92, subdivision 24, is amended to read:

Subd. 24. **APPLICATION FOR ACCOUNT NUMBER.** An employer, or person withholding tax under section 21, desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number on or before the due date of the first payment required to be made under the provisions of subdivision 6. An application for an account number shall be made upon a form prescribed by the commissioner and shall set forth the name of the employer or payor, the location of the place or places of business, the names, addresses and social security numbers of the owners or partners, or if the employer or payor is a corporation of the officers, or if the employer or payor is a trust of the trustees, and such other information as the commissioner may require. The application shall be filed by the owner if the employer or payor is a natural person; by a member or partner if the employer or payor is an association or partnership; by a trustee if the employer or payor be a trust, or by a person authorized to sign the application if the employer or payor is a corporation.

No fee shall be charged for the application.

The account number is not assignable.

An employer or payor who fails to file an application for a withholding account number shall be liable to the commissioner for a penalty of \$100. The penalty shall be collected in the same manner as delinquent withholding tax is collected. The commissioner may abate this penalty.

Sec. 20. Minnesota Statutes 1986, section 290.92, subdivision 25, is amended to read:

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Subd. 25. **DELEGATION OF DUTY OF EMPLOYER OR PAYOR.** The delegation to an agent, fiduciary or employee of an employer, or person withholding tax under section 21, of any duty prescribed for the employer or payor by this section shall not relieve the employer or payor of full compliance with such duty.

Sec. 21. [290.923] TAX WITHHELD ON ROYALTIES UPON ORE.

Subdivision 1. DEFINITION. In this section, "royalty" means the amount in money or value of property received by any person having any right, title, or interest in any tract of land in this state for permission to explore, mine, take out, and remove ore from the land.

Subd. 2. COLLECTION AT SOURCE. (a) Every person making payment of royalties shall deduct and withhold upon the royalties a tax as provided in this section.

(b) The amount of tax to be withheld shall be based upon tables to be prepared and distributed by the commissioner. The tables must be computed for several permissible withholding periods and shall take into account any exemptions allowed under this chapter. The amounts computed for withholding shall be such that the amount withheld for any person during the person's taxable year shall approximate in the aggregate as closely as possible the tax levied and imposed under this chapter for that taxable year upon the person's income subject to tax.

Subd. 3. RETURNS; DEPOSITS. Every person who is required to deduct and withhold tax under subdivision 2 shall file returns and make deposits as required under section 290.92, subdivision 6.

Subd. 4. WITHHOLDING STATEMENT. Every person required to deduct and withhold tax under this section shall furnish withholding statements as required by section 290.92, subdivision 7.

Subd. 5. PAYOR LIABLE FOR TAX WITHHELD. The payor shall be liable for the payment of tax required to be deducted and withheld under subdivision 2 and shall not be liable to any person for the amount of the payment.

Subd. 6. DETERMINATION OF TAX DUE. The commissioner may grant permission to payors who do not wish to use the withholding tax tables provided in accordance with subdivision (2), paragraph (b), in accordance with section 290.92, subdivision 9.

Subd. 7. REFUNDS. Refunds of overpayments or credits due to overpayments of tax imposed by this section shall be allowed in accordance with section 290.92, subdivisions 11 to 13.

Subd. 8. RECORDS. Every person liable for tax imposed by this section or for the collection of it shall be subject to the provisions of section 290.92, subdivision 14.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 9. PAYEES INCURRING NO INCOME TAX LIABILITY. Notwithstanding any other provision of this section a payor shall not be required to deduct and withhold any tax under this chapter upon a payment of royalties to a payee if there is in effect with respect to the payment a withholding exemption certificate, in the form and containing the information prescribed by the commissioner, furnished to the payor by the payee certifying that the payee:

(1) incurred no liability for income tax imposed under this chapter for the payee's preceding taxable year; and

(2) anticipates incurring no liability for income tax under this chapter for the current taxable year.

The commissioner shall provide by rule for the coordination of the provisions of this subdivision with the provisions of subdivision 4.

Subd. 10. APPLICATION FOR ACCOUNT NUMBER. A payor desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number in accordance with section 290.92, subdivisions 24 and 25.

Sec. 22. Minnesota Statutes 1986, section 298.01, subdivision 1, is amended to read:

Subdivision 1. **OCCUPATION TAX; IRON ORE; TACONITE CONCENTRATES.** Every person engaged in the business of mining or producing iron ore or other ores taconite concentrates in this state shall pay to the state of Minnesota an occupation tax equal to 15 percent of the valuation of all ores mined or produced before January 1, 1986, 14.5 percent of the valuation of all ores produced after December 31, 1985 and before January 1, 1987, and 14 percent of the valuation of all the ores produced after December 31, 1986. ~~Said~~ The tax shall be in addition to all other taxes provided for by law and shall be due ~~and payable from such person~~ on or before June 15 of the year next succeeding the calendar year covered by the report thereon to be filed as hereinafter provided during which the ore was produced.

Sec. 23. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 3. OCCUPATION TAX; OTHER ORES. Every person engaged in the business of mining or producing ores, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided in chapter 290, except that section 290.05, subdivision 1, clause (a), does not apply. Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 24. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 4. OCCUPATION TAX; IRON ORE; TACONITE CONCENTRATES. A person engaged in the business of mining or producing of iron ore or taconite concentrates shall pay an occupation tax to the state of Minnesota. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided for in chapter 290, except that section 290.05, subdivision 1, clause (a), does not apply. Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Sec. 25. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 5. IF DECLARED UNCONSTITUTIONAL. If the taxes imposed in subdivisions 3 and 4 are found unconstitutional by any court of last resort, then persons engaged in the business of mining or producing iron ore or other ores shall pay the occupation taxes imposed in Minnesota Statutes 1986, chapter 298.

Sec. 26. [298.015] NET PROCEEDS TAX ON MINING.

Subdivision 1. TAX IMPOSED. A person engaged in the business of mining shall pay to the state of Minnesota for distribution as provided in section 29 a net proceeds tax equal to two percent of the net proceeds from mining in Minnesota. The tax applies to all mineral and energy resources mined or extracted within the state of Minnesota except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, soil, iron ore, and taconite concentrates. The tax is in addition to all other taxes provided for by law. The tax is due by June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Subd. 2. NET PROCEEDS. For purposes of this section, the term "net proceeds" means the gross proceeds from mining, as defined in section 27, less the deductions allowed in section 28. No other credits or deductions shall apply to this tax except for those provided in section 28.

Sec. 27. [298.016] GROSS PROCEEDS.

Subdivision 1. COMPUTATION; ARMS-LENGTH TRANSACTIONS. When a metal or mineral product is sold by the producer in an arms-length transaction, the gross proceeds are equal to the proceeds from the sale of the product. This subdivision applies to sales realized on all metal or mineral products produced from mining, including reduction, beneficiation, or any treatment used by a producer to obtain a metal or mineral product which is commercially marketable.

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Subd. 2. OTHER TRANSACTIONS. When a metal or mineral product is used by the producer or disposed of in a non-arms-length transaction, the gross proceeds must be determined using the alternative computation in subdivision 3. Transactions subject to this subdivision include, but are not limited to, shipments to a wholly owned smelter, transactions with associated or affiliated companies, and any other transactions which are not at arms-length.

Subd. 3. ALTERNATIVE COMPUTATION. The commissioner of revenue shall determine the alternative computation of gross proceeds using the following procedure:

(a)(1) Metal and mineral prices shall be determined by using the average annual market price as published in the Engineering and Mining Journal; (2) For metals or mineral products with a monthly or weekly price quotation in the Engineering and Mining Journal, but for which no average annual price has been published, an arithmetic average of the monthly or weekly prices published in the Engineering and Mining Journal shall be used; (3) If the price of a particular metal or mineral product is not published in the Engineering and Mining Journal, another recognized published price, as established by the commissioner of revenue will be used.

(b) The quantity of each particular metal or mineral product recovered and paid or credited for by the smelter will be multiplied by the average annual market price as determined in clause (a). Special smelter charges for particular metals will be allowed as a deduction from this price. The resulting amount will be the gross proceeds for calculating the tax in section 26.

Subd. 4. DEFINITIONS. For the purposes of this section and sections 26 and 28, the terms defined in this subdivision have the meaning given them unless the context clearly indicates otherwise.

(a) "Metal or mineral products" means all those mineral and energy resources subject to the tax provided in section 26.

(b) "Exploration" means activities designed and engaged in to ascertain the existence, location, extent, or quality of any deposit of metal or mineral products prior to the development of a mining site.

(c) "Development" means activities designed and engaged in to prepare or develop a potential mining site for mining after the existence of metal or mineral products in commercially marketable quantities has been disclosed including, but not limited to, the clearing of forestation, the building of roads, removal of overburden, or the sinking of shafts.

(d) "Research" means activities designed and engaged in to create new or improved methods of mining, producing, processing, beneficiating, smelting, or refining metal or mineral products.

Sec. 28. [298.017] DEDUCTIONS.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. DEDUCTIONS NOT ALLOWED. For purposes of calculating the net proceeds under section 26, the following expenses are not deductible: (1) all sales, marketing, and interest expenses; (2) all insurance expense and taxes, except as specifically provided in this section; (3) all administrative expenses outside of Minnesota; (4) any research expense prior to production; (5) all reclamation expenses after production ends; (6) royalty expenses, depletion allowances, and cost of mining land.

Subd. 2. DEDUCTIONS ALLOWED. (a) In calculating the net proceeds for the purpose of determining the tax provided in section 26, only those expenses specifically allowed in this subdivision may be deducted from gross proceeds. The carryback or carryforward of deductions shall not be allowed.

(b) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products for (1) labor, including wages, salaries, fringe benefits, unemployment and workers' compensation insurance; (2) machinery, equipment, and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation shall only be deductible under clause (b)(3); (3) depreciation as defined and allowed by section 167 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and (4) administrative expenses inside Minnesota are deductible.

(c) Ordinary and necessary expenses of transporting metal or mineral products are allowed as a deduction if the costs are included in the sale price of the products.

(d) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year.

(e) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

Sec. 29. [298.018] DISTRIBUTION OF PROCEEDS.

Subdivision 1. WITHIN TACONITE TAX RELIEF AREA. The proceeds of the tax paid under sections 26 to 28 on minerals and energy resources mined or extracted within the taconite tax relief area defined in section 273.134 shall be allocated as follows:

(1) five percent to the city or town within which the minerals or energy resources are mined or extracted;

(2) ten percent to the taconite municipal aid account to be distributed as provided in section 298.282;

(3) ten percent to the school district within which the minerals or energy resources are mined or extracted;

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(4) 20 percent to a group of school districts comprised of those school districts wherein the mineral or energy resource was mined or extracted or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted assessed value per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted assessed value per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions;

(5) 20 percent to the county within which the minerals or energy resources are mined or extracted;

(6) 20 percent to St. Louis county acting as the counties' fiscal agent to be distributed as provided in sections 273.134 to 273.136;

(7) five percent to the iron range resources and rehabilitation board for the purposes of section 298.22;

(8) five percent to the northeast Minnesota economic protection trust fund; and

(9) five percent to the taconite environmental protection fund.

The proceeds of the tax shall be distributed on July 15 each year.

Subd. 2. OUTSIDE TACONITE TAX RELIEF AREA. The proceeds of the tax paid under sections 26 to 28 on minerals and energy resources mined or extracted outside of the taconite tax relief area shall be deposited in the general fund.

Sec. 30. Minnesota Statutes 1986, section 298.026, is amended to read:

**298.026 CREDIT FOR RESEARCH, EXPERIMENTATION, AND EXPLO-
RATION.**

A tax credit shall be allowed to each taxpayer against the taxes payable by such taxpayer as computed each year under sections 298.01, subdivision 1, and 298.02, for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development, or beneficiation of Minnesota iron ore or other Minnesota ores.

Such credit shall be computed by applying to such costs and allowances the weighted average net effective rate of all the occupation taxes applicable to such taxpayer for such year imposed pursuant to section 298.01, subdivision 1, after the application of the credits against such occupation taxes allowed under section 298.02, subdivision 1, but before the application of the credit herein provided.

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Any such credit shall be applied against the tax for the year for which such credit is computed except that any such credit in excess of such tax shall be applied in like manner in the next year and thereafter from year to year, but not exceeding two years, until the entire credit has been so applied.

The determination as to what type of costs will qualify under this law, and the amount allowable, will be made by the commissioner of revenue who may use the services of the University of Minnesota department of civil and mineral engineering which is hereby established as a technical consultant to the commissioner for the purposes of this section.

Sec. 31. Minnesota Statutes 1986, section 298.027, is amended to read:

298.027 COSTS OF MINING EXCEEDING VALUE OF ORE TAX CREDIT.

A tax credit shall be allowed to each taxpayer against the taxes computed under this chapter where the allowable costs for any mine determined under section 298.03 except taconite and semitaconite exceed the value of the ore at the place where the same is brought to the surface of the earth. The said allowable costs shall not include amounts attributable to or payable by reason of the termination of mining operations.

The credit shall be computed by applying the tax rates specified in section 298.01, subdivision 1, to the excess of such deductions over such value, but limited to; in the case of open pit iron ore mines, 53.68 percent of the credit so computed and in the case of underground mines, 42.10 percent of the credit so computed.

Such credit shall be allowed for the year in which such excess occurs.

Sec. 32. Minnesota Statutes 1986, section 298.028, subdivision 1, is amended to read:

Subdivision 1. A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules or standards to the extent the property is so used may be deducted from the tax imposed by section 298.01, subdivision 1, in the first year in which the equipment is installed.

The credit allowed by this subdivision shall not exceed so much of the liability for tax for the taxable year as does not exceed \$75,000. The credit shall apply only if the equipment meets rules prescribed by the Minnesota pollution control agency and is installed or operated in accordance with a permit or order issued by the agency.

Sec. 33. Minnesota Statutes 1986, section 298.03, subdivision 1, is amended to read:

Subdivision 1. **GENERAL RULES.** The valuation of iron or other ores for

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the purposes of determining the amount of tax to be paid under the provisions of section 298.01, subdivision 1, shall be ascertained by subtracting from the value of such ore, at the place where the same is brought to the surface of the earth, such value to be determined by the commissioner of revenue:

(1) the reasonable cost of supplies used and labor performed at the mine in separating the ore from the ore body, including hoisting, elevating, or conveying the same to the surface of the earth;

(2) if the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden, divided by the number of tons of ore uncovered, the number of tons of ore uncovered in each case to be determined by the commissioner of revenue;

(3) if the ore is taken from an underground mine, an amount for each ton of ore mined or produced during the year equal to the cost of sinking and constructing shafts and running drifts, divided by the number of tons of ore that can be advantageously taken out through such shafts and drifts, the number of tons of ore that can be advantageously taken out in each case to be determined by the commissioner of revenue;

(4) the amount of royalties paid on the ore mined or produced during the year;

(5) for persons mining or producing iron ore the mining or production of which is subject to the occupation tax imposed by section 298.01, subdivision 1, the amount of the ad valorem taxes levied and paid for the year against the realty in which the ore is deposited; for all others a percentage of the ad valorem taxes levied and paid for such year against the realty in which the ore is deposited equal to the percentage that the tons mined or produced during such year bears to the total tonnage in the mine;

(6) in the case of taconite, semitaconite and iron sulphide operations, the tax payable under section 298.24, and that payable under section 298.35, on the concentrates produced in said year and any taxes paid under Laws 1955, chapter 391, 429, 514, 576 or 540, or any other law imposing on such taconite operations a specific tax for school or other governmental purposes;

(7) the amount or amounts of all the foregoing subtractions shall be ascertained and determined by the commissioner of revenue. Deductions for interest on plant investment shall not exceed the greater of (a) four percent of book value, or (b) the amount actually paid but not exceeding six percent of book value. No subtraction shall be allowed for shrinkage of iron ore.

Sec. 34. Minnesota Statutes 1986, section 298.031, subdivision 2, is amended to read:

Subd. 2. **VALUE OF CERTAIN ORE; HOW ASCERTAINED.** (1) The taxpayer shall be given a credit in each taxable year upon the occupation tax

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assessed in such year upon iron ore or taconite concentrates, under Minnesota Statutes 1957, chapter 298, against a given mine after credit for labor credits has been given, in an amount equal to the occupation tax under said chapter 298 upon an amount produced by multiplying the number of tons of ore sold at a discount by the amount of such discount.

(2) The aggregate amount of all credits allowed under this section to all mines shall not exceed four percent of the aggregate amount of all occupation taxes imposed under section 298.01, subdivision 1, assessed against all mines in the state for said year prior to the deduction of the credit allowed by this section.

(3) The amount of the foregoing subtraction shall be ascertained and determined by the commissioner.

(4) If ore stockpiled from previous years operations is sold at a discount, the discount credit shall be allowed against all ore currently being produced by the same company to the extent that the discount credit is available. Any unused credit may be carried forward and utilized with future years production of ore from the stockpiled property or other properties operated by the same company.

Sec. 35. Minnesota Statutes 1986, section 298.08, is amended to read:

298.08 PROCEDURE WHEN NO REPORT IS FILED; PENALTY FOR FAILURE TO REPORT.

If any person subject to sections 298.01, 298.03, 298.05 to 298.16, and 298.21 ~~shall fail and~~ section 26 fails to make the report provided for in section 298.05 at the time and in the manner ~~therein~~ provided, the commissioner of revenue shall ~~in such case~~, upon information as the commissioner may possess or obtain, ascertain the kind and amount of ore mined or produced, together with ~~the its~~ valuation thereof, and ~~thereon find and~~ determine the amount of the tax due from such person. There shall be added ~~thereto to the tax~~ a penalty for failure to report, ~~which penalty shall equal to~~ ten percent of the tax imposed ~~and which shall be treated as a part thereof of the tax.~~

Sec. 36. Minnesota Statutes 1986, section 298.09, subdivision 1, is amended to read:

Subdivision 1. On or before May 1 in each year, the commissioner of revenue shall send to each person subject to an occupation ~~tax~~ taxes under the provisions of ~~Laws 1921, chapter 223~~ section 298.01, as amended, ~~or the net proceeds tax under the provisions of section 26~~, a notice of the amount of the tax so determined to be due. Said notice shall be sent by certified mail and directed to the person at the address given in the report filed by the person, and, if no report has been filed or no address given, then at such address as the commissioner of revenue may be able to ascertain; but the validity of the tax shall not be affected by the failure of the commissioner of revenue to mail such notice or the failure of the person subject to the tax to receive it.

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Sec. 37. Minnesota Statutes 1986, section 298.24, subdivision 1, is amended to read:

Subdivision 1. (a) For concentrate produced in 1986 and 1987 there is hereby imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced, a tax of \$1.90 per gross ton of merchantable iron ore concentrate produced therefrom.

(b) Except as provided in paragraph (c), for concentrates produced in ~~1987~~ 1988 and subsequent years, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year. "Implicit price deflator" for the gross national product means the implicit price deflator prepared by the bureau of economic analysis of the United States Department of Commerce.

(c) The provisions of paragraph (b) ~~will not be in effect for concentrates produced in 1987 if the 1987 production is not less than 33,000,000 tons, and will not be in effect for concentrates produced in 1988 if the 1988 production is not less than 34,000,000 tons.~~ If the provisions of paragraph (b) are not in effect for concentrates produced in a year, the rate of the tax for that year's production will be the rate of the tax imposed on the previous year's production. The tax shall be imposed on the average of the production for the current year and the previous two years. The rate of the tax imposed will be the current year's tax rate. This clause shall not apply in the case of the closing of a taconite facility if the property taxes on the facility would be higher if this clause and section 298.25 were not applicable.

(d) If the tax or any part of the tax imposed by this subdivision is held to be unconstitutional, a tax of \$1.90 per gross ton of merchantable iron ore concentrate produced shall be imposed.

(e) Consistent with the intent of this subdivision to impose a tax based upon the weight of merchantable iron ore concentrate, the commissioner of revenue may indirectly determine the weight of merchantable iron ore concentrate included in fluxed pellets by subtracting the weight of the limestone, dolomite, or olivine derivatives or other basic flux additives included in the pellets from the weight of the pellets. For purposes of this paragraph, "fluxed pellets" are pellets produced in a process in which limestone, dolomite, olivine, or other basic flux additives are combined with merchantable iron ore concentrate. No subtraction from the weight of the pellets shall be allowed for binders, mineral and chemical additives other than basic flux additives, or moisture.

Sec. 38. Minnesota Statutes 1986, section 298.25, is amended to read:

298.25 TAXES ADDITIONAL TO OTHER TAXES.

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The taxes imposed under section 298.24 shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore ~~and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore~~. Except as herein otherwise provided, such taxes shall be in lieu of all other taxes upon such taconite and iron sulphides, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities. If electric or steam power for the mining, transportation or concentration of such taconite or the concentrates produced therefrom is generated in plants principally devoted to the generation of power for such purposes, the plants in which such power is generated and all machinery, equipment, tools, supplies, transmission and distribution lines used in the generation and distribution of such power, shall be considered to be machinery, equipment, tools, supplies and buildings used in the mining, quarrying or production of taconite and taconite concentrates within the meaning of this section. If part of the power generated in such a plant is used for purposes other than the mining or concentration of taconite or the transportation or loading of taconite or the concentrates thereof, a proportionate share of the value of such generating facilities, equal to the proportion that the power used for such other purpose bears to the generating capacity of the plant, shall be subject to the general property tax in the same manner as other property; provided, power generated in such a plant and exchanged for an equivalent amount of power which is used for the mining, transportation or concentration of such taconite or concentrates produced therefrom, shall be considered as used for such purposes within the meaning of this section. Nothing herein shall prevent the assessment and taxation of the surface of reserve land containing taconite and not occupied by such facilities or used in connection therewith at the value thereof without regard to the taconite or iron sulphides therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than taconite or iron sulphides in such lands in the manner provided by law, nor the assessment and taxation of facilities used in producing sulphur or sulphur products from iron sulphide concentrates, or in refining such sulphur products, under the general property tax laws. Nothing herein shall except from general taxation or from taxation as provided by other laws any property used for residential or townsite purposes, including utility services thereto.

Sec. 39. Minnesota Statutes 1986, section 298.28, subdivision 4, is amended to read:

Subd. 4. **SCHOOL DISTRICTS.** (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in

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which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts wherein the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted assessed value per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted assessed value per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections ~~294.21 to 294.26; 29~~; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~ or any law imposing a tax on ~~several severed~~ mineral values or any other law distributing proceeds in lieu of ad valorem tax assessments on ~~copper or nickel properties~~ that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, ~~1988~~ 1989 and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) \$150 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1-3/4 mills times the district's taxable valuation in the second previous year; times

(ii) the lesser of:

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(A) one, or

(B) the ratio of the amount certified pursuant to section 124A.03, subdivision 2, in the previous year, to the product of 1-3/4 mills times the district's taxable valuation in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of \$150 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce foundation aids which the district is entitled to receive pursuant to section 124A.02 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 40. Minnesota Statutes 1986, section 298.28, subdivision 7, is amended to read:

Subd. 7. IRON RANGE RESOURCES AND REHABILITATION BOARD.

Three cents per taxable ton shall be paid to the iron range resources and rehabilitation board for the purposes of section 298.22. The amount determined in this subdivision shall be increased in 1981 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1, and shall be increased in ~~1988~~ 1989 and subsequent years according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production. The amount distributed pursuant to this subdivision shall be expended within or for the benefit of a tax relief area defined in section 273.134. No part of the fund provided in this subdivision may be used to provide loans for the operation of private business unless the loan is approved by the governor and the legislative advisory commission.

Sec. 41. Minnesota Statutes 1986, section 298.28, subdivision 10, is amended to read:

Subd. 10. INCREASE. The amounts determined under subdivisions 6, paragraph (a), and 9 shall be increased in 1979 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1. The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production. Those amounts shall be increased in ~~1988~~

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1989 and subsequent years in the same proportion as the increase in the implicit price deflator as provided in section 298.24, subdivision 1.

The distributions per ton determined under subdivisions 5, paragraphs (b) and (d), and 6, paragraphs (b) and (c) for distribution in 1988 and subsequent years shall be the distribution per ton determined for distribution in 1987.

Sec. 42. Minnesota Statutes 1986, section 298.28, is amended by adding a subdivision to read:

Subd. 15. DISTRIBUTION OF DELAYED PAYMENTS. Notwithstanding any other provision of this section or any other law, if payment of taxes collected under section 298.24 is delayed past the due date because the taxpayer is a debtor in a pending bankruptcy proceeding, the amount paid shall be distributed as follows when received:

(1) 50 percent to St. Louis county acting as the counties' fiscal agent, to be distributed as provided in sections 273.134 to 273.136;

(2) 25 percent to the northeast Minnesota economic protection trust fund; and

(3) 25 percent to the taconite environmental protection fund.

Sec. 43. **REPEALER.**

(a) Minnesota Statutes 1986, sections 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; and 299.14, are repealed.

(b) Minnesota Statutes 1986, sections 290.082; 298.04; 298.28, subdivision 14; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; and 298.67, are repealed.

(c) Minnesota Statutes 1986, sections 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; and 298.40 are repealed.

Sec. 44. **EFFECTIVE DATE.**

Section 1 and the parts of sections 2, 3, 5, 8, and 39 that strike references to sections 298.51 to 298.67 and references to other laws distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties are effective December 31, 1986. Section 6 is effective for taxes assessed in 1989 and thereafter. Sections 4, 10 to 21, 38, and 43, paragraph (a), and the parts of sections 2, 3, 5, 8, and 39 that strike references to sections 294.21 to 294.26 or sections 294.21 to 294.28 are effective for taxable years beginning after December 31, 1989. Sections 7, 9, 22, 26 to 36, and 43, paragraph (b), are effective for taxable years beginning after December 31, 1986. Section 23 is effective for ores mined after December 31, 1986. Section 24 and section 43, paragraph (c), are effective for iron ore and taconite concentrates mined after December 31, 1989. Section 37 is effective for taconite concentrates mined after December 31, 1986.

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ARTICLE 10

ECONOMIC DEVELOPMENT

Section 1. Minnesota Statutes 1986, section 273.1313, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) As used in this section, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of ~~revenue~~ energy and economic development.

(c) "Employment property" means taxable property, excluding land but including buildings, structures, fixtures, and improvements that satisfy each of the following conditions:

(1) The property is located within an enterprise zone designated according to section 273.1312.

(2) The property is commercial or industrial property which is not ~~used in a trade or business which either is described in section 103(b)(6)(O) of the Internal Revenue Code of 1954, as amended through December 31, 1984, or is property of a public utility~~ (i) a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack; (ii) property of a public utility; (iii) property used in the operation of a financial institution; (iv) property owned by a fraternal or veterans' organization; or (v) property of a business operating under a franchise agreement that requires the business to be located in the state; except that, in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not in a city of the first class, employment property includes property used as a retail food or beverage facility or an automobile sales or service facility, and property described in (v) except for property of a retail food or beverage facility.

(d) "Market value" of a parcel of employment property means the value of the taxable property as annually determined pursuant to section 273.12, less (i) the market value of all property existing at the time of application for classification, as last assessed prior to the time of application, and (ii) any increase in the market value of the property referred to in clause (i) as assessed in each year after the employment property is first placed in service. In each year, any change in the values of the employment property and the other property on the land shall be deemed to be proportionate unless caused by a capital improvement or loss.

(e) "Municipality" means any home rule charter or statutory city or county,

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but a county may not exercise the powers granted in this section with reference to property situated within a city.

(f) Notwithstanding the provisions of paragraphs (c) and (d) "employment property" and "market value" includes in the case of taxable real property located in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the entire value of the commercial and industrial employment property, including land, used in a trade or business which is not used in a trade or business which either is described in section 103(b)(9)(ii) of the Internal Revenue Code of 1954, as amended through December 31, 1984, or is the property of a public utility. The provisions of this paragraph shall not apply to employment property located in an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), that is assessed pursuant to the first clause of the first sentence of section 273.13, subdivision 24, paragraph (b).

Sec. 2. Minnesota Statutes 1986, section 273.1313, subdivision 2, is amended to read:

Subd. 2. **PROGRAM.** (a) The governing body of any municipality which contains a designated enterprise zone as provided by section 273.1312 shall by resolution establish a program for classification of new property or improvements to existing property as employment property pursuant to the provisions of this section. Applications for classification under the program shall be filed with the municipal clerk or auditor in a form prescribed by the commissioner, with additions as may be prescribed by the municipal governing body. The application shall contain, where appropriate, a legal description of the parcel of land on which the facility is to be situated or improved; a general description of the facility or improvement and its proposed use, the probable time schedule for undertaking any construction or improvement, and information regarding the matters referred to in paragraph (d); the market value and the assessed value of the land and of all other taxable property then situated on it, according to the most recent assessment; and if the property is to be improved or expanded, an estimate of the probable cost of the new construction or improvement and the market value of the new or improved facility (excluding land) when completed.

(b) Upon receipt of an application the municipal clerk or auditor, subject to any prior approval required by the resolution establishing the program, shall furnish a copy to the assessor for the property and to the governing body of each school district and other public body authorized to levy taxes on the property, and shall publish a notice in the official newspaper of the time and place of a hearing to be held by the governing body on the application, not less than 30 days after the notice is published, stating that the applicant, the assessor, representatives of the affected taxing authorities, and any taxpayer of the municipality may be heard or may present their views in writing at or before the hearing. The hearing may be adjourned from time to time, but the governing body shall take action on the application by resolution within 30 days after the hearing. If disapproved, the reasons shall be set forth in the resolution, and the applicant

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may appeal to the commissioner within 30 days thereafter, but only on the ground that the determination is arbitrary, in relation to prior determinations as to classification under the program, or based upon a mistake of law. If approved, the resolution shall include determinations as to the matters set forth in paragraph (d), and the clerk or auditor shall transmit it to the commissioner.

(c) Within 60 days after receipt of an approved application or an appeal from the disapproval of an application, the commissioner shall take action on it. The commissioner shall approve each application approved by the governing body on finding that it complies with the provisions of this section. If the commissioner disapproves the application, or finds grounds exist for appeal of a disapproved application, the commissioner shall transmit the finding to the governing body and the applicant. When grounds for appeal have been determined to exist, the governing body shall reconsider and take further action on the application within 30 days after receipt of the commissioner's notice and serve written notice of the action upon the applicant. The applicant, within 30 days after receipt of notice of final disapproval by the commissioner or the governing body, may appeal from the disapproval to a court of competent jurisdiction.

(d) In the case of enterprise zones qualifying pursuant to section 273.1312, subdivision 4, paragraph (c), clause (1), an application shall not be approved unless the governing body finds and determines that the construction or improvement of the facility:

(1) is reasonably likely to create new employment or prevent a loss of employment in the municipality;

(2) is not likely to have the effect of transferring existing employment from one or more other municipalities within the state;

(3) is not likely to cause the total market value of employment property within the municipality to exceed five percent of the total market value of all taxable property within the municipality; or if it will, the resulting limitation upon the increase of the assessed value of all taxable property within the municipality, considering the amount of additional municipal services likely to be required for the employment property, is not likely to substantially impede the operation or the financial integrity of the municipality or any other public body levying taxes on property in the municipality; and

(4) will not result in the reduction of the assessed value of existing property within the municipality owned by the applicant, through abandonment, demolition, or otherwise, without provision for the restoration of the existing property within a reasonable time in a manner sufficient to restore the assessed valuation.

(e) In the case of enterprise zones qualifying pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), an application for assessment as employment property under section 273.13, subdivision 24, paragraph (b), or for a tax reduction pursuant to section 273.1314, subdivision 9, may not be approved

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unless the governing body finds and determines that the construction or improvement of the facility is not likely to have the effect of transferring existing employment from one or more other municipalities within the state.

(f) All participating enterprise zone municipalities must submit, with each application from businesses that previously have not received enterprise zone credits, a written multiyear enterprise zone tax credit distribution plan. The plan must set forth: (1) the maximum amount of credits to be drawn over the five year allowable period; and (2) the maximum amount of state tax credits to be drawn each of those five years, and whether the form will be in tax credits or refunds.

(g) Within 90 days of final enactment of this act, all participating enterprise zone municipalities, except those containing an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), other than a zone in the city of the first class, must submit a written multiyear enterprise zone tax credit distribution plan. The plan must specify the maximum amounts of state tax credits previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits from a business that meets the requirements established in sections 273.1312 to 273.1314. The commissioner shall not approve any request for state tax credits from a business that exceeds the amount set forth in an enterprise zone municipality's multiyear enterprise zone tax credit distribution plan for that business entity for that year.

(h) Border city enterprise zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that are not located in cities of the first class shall, within 90 days of final enactment of this act, submit a written multiyear enterprise zone tax distribution plan. The plan must specify the maximum aggregate amount of tax credits all previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits for a business that meets the requirements established in sections 273.1312 to 273.1314.

Sec. 3. Minnesota Statutes 1986, section 273.1314, subdivision 9, is amended to read:

Subd. 9. **AUTHORIZED FORMS OF STATE TAX REDUCTIONS.** (a) The following types of tax reductions may be approved by the commissioner for businesses located in an enterprise zone:

(1) an exemption from the general sales tax imposed by chapter 297A for purchases of construction materials or equipment for use in the zone if the purchase was made after the date of application for the zone;

(2) a credit against the income tax of an employer for additional workers employed in the zone, other than workers employed in construction, up to a maximum of \$3,000 per employee per year;

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(3) an income tax credit for a percentage of the cost of debt financing to construct new or expanded facilities in the zone;

(4) a state paid property tax credit for a portion of the property taxes paid by a new commercial or industrial facility or the additional property taxes paid by an expansion of an existing commercial or industrial facility in the zone; and

(5) a complete abatement of all corporate income and excise taxes under chapter 290, property taxes, and sales and use taxes under chapter 297A on the purchase of construction materials or equipment for use in the zone if the zone is designated pursuant to section 273.1312, subdivision (4), paragraph (c), clause (4). Local taxing authorities with an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (4), will be reimbursed by the state for foregone property taxes only to the extent that the local taxing authority can demonstrate the development within that zone has imposed an additional net financial burden on its budget. The additional net financial burden shall be determined by subtracting the increase in the total equalized assessed property value of the local taxing authority that is in excess of a statewide average increase in equalized assessed property values as determined by the commissioner of revenue, multiplied by the mill rate of the local taxing authority for taxes payable in the current year, from the additional direct costs the development has placed on the local taxing authority's budget for the current year. The commissioner of energy and economic development, in consultation with the commissioner of revenue, shall review that local taxing authority's demonstration of additional financial burden and determine the amount which the state will reimburse the local taxing authority for foregone property tax revenue.

(b) The municipality shall specify in its application for designation the types of tax reductions it seeks to be made available in the zone and the percentage rates and other appropriate limitations on the reductions.

(c) Upon designation of an enterprise zone and approval by the commissioner of the tax reductions to be made available therein, the commissioner of revenue shall take the steps necessary to implement the tax reductions.

(d) The tax reductions provided by this subdivision shall not apply to ~~any facility described in section 103(b)(6)(C) of the Internal Revenue Code of 1954, as amended through January 15, 1983, or to any regulated public utility~~ (1) a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack; (2) property of a public utility; (3) property used in the operation of a financial institution; (4) property owned by a fraternal or veterans' organization; or (5) property of a business operating under a franchise agreement that requires the business to be located in the state;

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except that, in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not in a city of the first class, tax reductions may be provided to a retail food or beverage facility or an automobile sales or service facility, or a business operating under a franchise agreement that requires the business to be located in this state except for such a franchised retail food or beverage facility.

(e) The commissioner shall approve tax reductions authorized by paragraph (a) within an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), only after the governing body of a city designated as an enterprise zone has designated an area or areas, each consisting of at least 100 acres, of the city not in excess of 400 acres in which the tax reductions may be provided.

(f) In addition to the tax reductions authorized by paragraph (a), for an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the following types of tax reductions may be approved:

(1) A credit against income tax for workers employed in the zone and not qualifying for a credit under paragraph (a), clause (2), subject to a maximum of \$1,500 per employee per year;

(2) A state paid property tax credit for a portion of the property taxes paid by a commercial or industrial facility located in the zone. ~~Notwithstanding paragraph (d), the credits provided by this paragraph may be provided to the businesses described in section 103(b)(6)(0)(i) of the Internal Revenue Code of 1954, as amended through December 31, 1983.~~

(g) Each tax reduction provided to a business pursuant to this subdivision shall terminate not longer than five years after the effective date of the tax reduction for the business unless the business is located in a border city enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not a city of the first class. Each tax reduction provided to a business that is located in a border city enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), that is not located in a city of the first class shall terminate not longer than seven years after the effective date of the tax reduction for the business. Subject to the five-year or the seven-year limitation, the tax reductions may be provided after expiration of the zone's designation.

(h) The income tax credits provided pursuant to clauses (a) and (f) may be refundable.

Sec. 4. Minnesota Statutes 1986, section 273.1314, subdivision 10, is amended to read:

Subd. 10. **RECAPTURE.** Any business which (a) receives tax reductions authorized by subdivision 9, classification as employment property pursuant to section 273.1312, or an alternative local contribution under subdivision 6; and

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(b) ceases to operate its facility located within the enterprise zone within two years after the expiration of the tax reductions shall repay the amount of the tax reduction or local contribution pursuant to the following schedule:

Termination of operations	Repayment Portion
Less than 6 months	100 percent
6 months or more but less than 12 months	75 percent
12 months or more but less than 18 months	50 percent
18 months or more but less than 24 months	25 percent

The repayment must be paid to the state to the extent it represents a tax reduction under subdivision 9 and to the municipality to the extent it represents a property tax reduction or other local contribution. Any amount repaid to the state must be credited to the amount certified as available for tax reductions in the zone pursuant to subdivision 8. Any amount repaid to the municipality must be used by the municipality for economic development purposes.

The commissioner of revenue may seek repayment of tax credits from a business ceasing to operate within an enterprise zone.

Sec. 5. Minnesota Statutes 1986, section 273.1314, is amended by adding a subdivision to read:

Subd. 8b. ADDITIONAL BORDER CITY ALLOCATIONS. In addition to tax reductions authorized in subdivisions 8 and 8a, the commissioner may allocate \$2,000,000 for tax reductions pursuant to subdivision 9 to enterprise zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), except for zones located in cities of the first class. This money shall be allocated among the zones on a per capita basis. Limits on the maximum allocation to a zone imposed by subdivision 8 do not apply to allocations made under this subdivision. Tax reductions authorized by this subdivision may not be allocated to any property which is:

(1) a facility the primary purpose of which is one of the following: the provision of recreation or entertainment, or a private or commercial golf course, country club, massage parlor, tennis club, skating facility including roller skating, skateboard, and ice skating, racquet sports facility, including any handball or racquetball court, hot tub facility, suntan facility, or racetrack;

(2) property of a public utility;

(3) property used in the operation of a financial institution;

(4) property owned by a fraternal or veterans' organization;

(5) property of a retail food or beverage service business operating under a franchise agreement that requires the business to be located in the state.

Sec. 6. Minnesota Statutes 1986, section 273.1314, is amended by adding a subdivision to read:

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Subd. 10a. INTEREST. When tax credits allowed under subdivision 9 result in an overpayment within the meaning of section 290.50, the excess to be refunded to the taxpayer shall bear interest at the amount specified in section 270.76, computed from 90 days after (1) the due date of the return or (2) the date on which the return is filed, whichever is later, to the date the refund is paid.

Sec. 7. Minnesota Statutes 1986, section 297A.257, subdivision 1, is amended to read:

Subdivision 1. **DESIGNATION OF DISTRESSED COUNTIES.** (a) The commissioner of energy and economic development shall annually on June 1 designate those counties which are distressed. A county is distressed if it satisfies either at least one of the following ~~two~~ criteria:

(1) The county has an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; or

(2) the unemployment rate for the entire county was greater than 110 percent of the state average for the 12-month period ending the previous April 30, and 20 percent or more of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture; or

(3) for counties designated for periods beginning after June 30, 1986, but before July 1, 1988, at least 20 percent of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture and the total market value of real and personal property for the entire county for taxes payable in 1986, as determined by the commissioner of revenue, has decreased by at least 22 percent from the total market value of real and personal property for the entire county for taxes payable in 1984.

If, as a result of a plant closing, layoffs or another similar event affecting a significant number of employees in the county, the commissioner has reason to believe that the average unemployment in the county will exceed ten percent during the one-year period beginning April 30, the commissioner may designate the county as distressed, notwithstanding clause (1).

(b) The commissioner shall designate a portion of a county containing a city of the first class located outside of the metropolitan area as a distressed county if:

(1) that portion of the county has an unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; and

(2) that portion of the county has a population of at least 50,000 as determined by the 1980 federal census.

(c) A county or the portion of a county designated pursuant to this subdivi-

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sion shall be considered a distressed county for purposes of this section and chapter 116M.

(d) Except as otherwise specifically provided, the determination of whether a county is distressed must be made using the most current data available from the state demographer. The designation of a distressed county is effective for the 12-month period beginning July 1. A county may be designated as distressed as often as it qualifies.

(e) The authority to designate counties as distressed expires on June 30, 1989.

Sec. 8. Minnesota Statutes 1986, section 297A.257, subdivision 2, is amended to read:

Subd. 2. **SALES TAX EXEMPTION.** Purchase and use of capital equipment is exempt from the sales and use tax imposed by this chapter if the capital equipment is placed in service in connection with the construction of a new or an expansion of an existing manufacturing facility in a distressed county or in the taconite tax relief area defined in section 273.134. Purchase or use of equipment for use in an existing plant qualifies under this section and section 297A.01, subdivision 16, as an expansion if either the production capacity of the plant is increased by at least 20 percent as a result or if the total capital investments made within a 12-month period exceed \$25,000,000. Purchases of capital equipment are exempt under this section only to the extent that the purchases of capital equipment for the project during the calendar year exceed \$100,000. The county is a distressed county for purposes of this subdivision if it was designated as a distressed county for the time period during which the contract to purchase the equipment was executed.

A county meeting only the criteria in paragraph (a), clause (3), of subdivision 1 is a distressed county for purposes of this subdivision if it was designated as a distressed county for the time period during which sales and use tax on capital equipment purchased became due and payable.

Sec. 9. Minnesota Statutes 1986, section 297A.257, subdivision 2a, is amended to read:

Subd. 2a. **EXEMPTION FOR CONSTRUCTION MATERIALS.** Construction materials and supplies are exempt from the tax imposed under this chapter, regardless of whether purchased by the owner or a contractor, subcontractor, or builder, ~~if all of the following conditions are met:~~

(a)(1) the materials and supplies are used or consumed in constructing a new manufacturing facility or expanding an existing one in a distressed county; and

(2) the total capital investment made within a three-year period exceeds \$75,000,000; or

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(b)(1) the materials and supplies are used or consumed in constructing a new manufacturing facility or expanding an existing one within the taconite tax relief area defined in section 273.134; and

(2) the total capital investment made within a three-year period exceeds \$50,000,000.

A county is a distressed county for purposes of a project qualifying under this subdivision if it was designated as a distressed county at the time the initial contract to purchase the materials and supplies was executed.

Sec. 10. Minnesota Statutes 1986, section 297A.257, is amended by adding a subdivision to read:

Subd. 2b. PROJECTS; CONTINUED EXEMPTION. If construction of a project is begun during a time period in which the county was designated as a distressed county and if the county ceases to be a distressed county, the provision of subdivisions 2 and 2a apply to the project as if the county were distressed for 12 months after the designation expired.

Sec. 11. APPROPRIATION.

\$500,000 is appropriated from the general fund to the commissioner of energy and economic development to be disbursed to the Aitkin county growth fund to be expended for economic development projects and activities within the county.

ARTICLE 11

GROSS EARNINGS

Section 1. Minnesota Statutes 1986, section 295.01, subdivision 10, is amended to read:

Subd. 10. **TELEPHONE COMPANY.** The term "telephone company" as used in this chapter means any person, firm, association or corporation, excluding municipal telephone companies, owning or operating any telephone line or telephone exchange for hire wholly or partly within this state, including radio and other advancements in the art of telephony but excluding cellular radio and sellers of telephone services, but excluding resellers and cellular radio. "Resellers of telephone services" as used in this chapter means any person, firm, association, or corporation that:

(1) resells telecommunications services purchased from telephone companies as defined in this chapter;

(2) does not own, operate, manage, or control transmission facilities that have the technological capability to provide telecommunication services; and

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(3) incurs costs equal to at least 50 percent of its gross revenues for the telephone services purchased from telephone companies that own, operate, manage, or control transmission facilities.

Sec. 2. Minnesota Statutes 1986, section 295.32, is amended to read:

295.32 GROSS EARNINGS TAX; ANNUAL RETURN.

Every telegraph company as defined in section 295.01, subdivision 9, shall file a return with the commissioner of revenue, in such form as the commissioner shall prescribe, containing a true and just report of its gross earnings derived from business within the state during the preceding calendar year, ~~which return shall contain a computation of tax of six percent and make payment of the tax based upon the following percentages~~ of such gross earnings:

for calendar years beginning before December 31, 1989, 6 percent,

for calendar year 1990, 4.5 percent,

for calendar year 1991, 3 percent,

for calendar year 1992, 1.5 percent, and

for calendar years beginning after December 31, 1992, exempt.

Such return and payment of the tax due therewith shall be submitted on or before March first of each year, and shall be in lieu of all ad valorem taxes upon the property of such company within the state for the year during which such gross earnings accrued. The provisions of chapter 294 and acts amendatory thereto, shall be applicable to such telegraph companies and to the returns and to the taxes submitted therewith by them.

Sec. 3. Minnesota Statutes 1986, section 295.34, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2 every telephone company shall file a return with the commissioner of revenue on or before April 15 of each year, and submit payment therewith, of the following percentages of its gross earnings, including long distance access charges, of the preceding calendar year derived from business within this state:

(a) for gross earnings from service to rural subscribers and from exchange business of all cities of the fourth class and statutory cities having a population of 10,000 or less

for calendar years beginning before December 31, 1986 1988, 4 percent,

for calendar year 1987 1989, 3 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of four percent,

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for calendar year ~~1988~~ 1990, 1.5 percent,

for calendar year ~~1989~~ 1991, 1 percent, and

for calendar years beginning after December 31, ~~1989~~ 1992, exempt; and

(b) for gross earnings derived from all other business

for calendar years beginning before December 31, ~~1986~~ 1988, 7 percent,

for calendar year ~~1987~~ 1989, 5.5 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of seven percent,

for calendar year ~~1988~~ 1990, 3 percent,

for calendar year ~~1989~~ 1991, 2.5 percent, and

for calendar years beginning after December 31, ~~1989~~ 1992, exempt.

Beginning January 1, 1986, A tax shall not be imposed on the gross earnings of a telephone company from business originating or terminating outside of Minnesota, except that the gross earnings tax is imposed on all long distance access charges allocated to interstate service received in payment from a telephone company before December 31, 1989.

The tax imposed is in lieu of all other taxes, except the taxes imposed by chapter 290, property taxes assessed beginning in ~~1987~~ 1989, payable in ~~1988~~ 1990, and sales and use taxes imposed as a result of ~~section 296.22, subdivision 13~~ chapter 297A. All money paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid, ~~but shall not be deemed earnings of the collecting and paying company.~~ For the purposes of this section, the population of any statutory city shall be considered as that stated in the latest federal census.

Sec. 4. Minnesota Statutes 1986, section 295.365, is amended to read:

295.365 DECLARATIONS OF ESTIMATED GROSS EARNINGS TAX BY TELEGRAPH AND TELEPHONE COMPANIES.

Subdivision 1. PAYMENTS. Every telegraph company subject to taxation pursuant to section 295.32 and every telephone company subject to taxation pursuant to section 295.34, shall make a declaration of estimated gross earnings tax for the calendar year if the gross earnings tax can reasonably be expected to be in excess of \$1,000. The declaration of estimated tax shall be filed on or before March 15. The amount of estimated tax with respect to which a declaration is required shall be paid in four equal installments on or before the 15th day of March, June, September, and December. For calendar year 1989 only, the March 15 and June 15 installments for telephone companies shall be made as provided in section 295.34, subdivision 1. The remaining two installments for calendar year 1989 shall be calculated by subtracting the sum of the March

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15 and June 15 installments from the estimated tax for the year and dividing the difference by two. An amendment of a declaration may be filed in any interval between installment dates prescribed above but only one amendment may be filed in each such interval.

Subd. 2. AMENDMENT OF DECLARATIONS. (a) If any amendment of a declaration is filed, the amount of each remaining installment shall be the amount which would have been payable if the new estimate had been made when the first estimate for the calendar year was made, increased or decreased, as the case may be, by the amount computed by dividing

(1) the difference between (A) the amount of estimated tax required to be paid before the date on which the amendment was made, and (B) the amount of estimated tax which would have been required to be paid before such date if the new estimate had been made when the first estimate was made, by

(2) the number of installments remaining to be paid on or after the date on which the amendment is made.

(b) Notwithstanding paragraph (a), if an amendment of a declaration is filed for calendar year 1989 prior to payment of the June 15 installment, the amount of the June 15 installment shall be 31.5 percent of the estimated tax for the calendar year plus the difference between 31.5 percent of the reestimated tax for the calendar year and the March 15 installment.

Subd. 3. EXTENSIONS. The commissioner of revenue may grant a reasonable extension of time for filing any declaration but such extension shall not be for more than six months.

Sec. 5. Minnesota Statutes 1986, section 295.366, is amended by adding a subdivision to read:

Subd. 5. [1989 EXCEPTION.] Notwithstanding subdivision 4, for calendar year 1989 only, the addition to the tax with respect to any underpayment of the March 15 or June 15 payment is imposed if the total amount of the payments of estimated tax made on or before June 15 does not equal or exceed the amount which would have been required to be paid on or before that date if the estimated tax for the first six months of 1989 were the lesser of:

(1) 50 percent of the tax shown on the return of the corporation for the preceding year; or

(2) 60 percent of the actual liability for the calendar year.

The addition to tax under this subdivision shall reduce any addition to tax imposed under subdivision 4 but not to less than zero.

Sec. 6. Minnesota Statutes 1986, section 295.39, is amended to read:

295.39 REPORTS FILED BY TRUST COMPANIES WITH COMMISSIONER OF REVENUE COUNTY TREASURER.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

It shall be the duty of every trust company which is required to pay a tax of six percent of its gross earnings in lieu of taxes and assessments upon its capital stock and personal property pursuant to the provisions of section 295.37, on or before the first day of February, in each year, to make and file with the ~~commissioner of revenue~~ county treasurer of the county in which the trust has its principal place of business a report covering the preceding calendar year, verified by the oath of an officer of such company, setting forth correctly the full amount of the gross earnings of such company during the preceding calendar year, and such other and further information as the ~~commissioner of revenue~~ county treasurer may require.

Sec. 7. Minnesota Statutes 1986, section 295.40, is amended to read:

295.40 TAX DETERMINED.

Upon receipt of such report the ~~commissioner of revenue~~ county treasurer shall determine therefrom and from such other information as the ~~commissioner treasurer~~ may possess or obtain the amount of tax due from such company; and, on or before the 15th day of February, the commissioner of revenue county treasurer shall certify the amount of the taxes found and determined to be due from such company to the ~~treasurer of the county in which such trust company has its principal place of business.~~

Sec. 8. Minnesota Statutes 1986, section 295.41, is amended to read:

295.41 FAILURE TO REPORT; PENALTY.

If any company subject to sections 295.39 to 295.43 shall fail to make the report provided for in section 295.39, at the time and in the manner therein provided, there shall be added to the tax found and determined by the ~~commissioner of revenue~~ county treasurer to be due from such company a penalty equal to ten percent of the tax imposed, which shall be treated as a part thereof.

Sec. 9. Minnesota Statutes 1986, section 295.43, is amended to read:

295.43 LIEN OF TAX.

Gross earnings taxes imposed under and pursuant to the provisions of section 295.37, which become delinquent, shall be a lien upon all of the property of the company owning the same, and shall be collected at the same time and in the same manner that delinquent ~~personal~~ property taxes are collected.

Sec. 10. Laws 1985, First Special Session chapter 14, article 3, section 18, is amended to read:

Sec. 18. EFFECTIVE DATE.

Section 3 and section 4, paragraph (d), are effective beginning with taxes assessed in ~~1987~~ 1989 and payable in ~~1988~~ 1990 and thereafter. Sections 2, 4, paragraph (c), 5 to 12, and 14 are effective beginning with taxes assessed in 1985

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and payable in 1986 and thereafter. Sections 15 and 16 are effective the day after final enactment. The change in the classification ratio for employment property in section 9 does not modify the required amount of local contribution for enterprise zones, approved prior to enactment of this act, that provide local contributions in lieu of the employment classification for projects already approved.

Sec. 11. **REPEALER.**

(a) Laws 1985, First Special Session chapter 14, article 14, section 3, is repealed.

(b) Minnesota Statutes 1986, sections 295.32; 295.33; 295.34; 295.36; 295.365; and 295.366, are repealed.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 3 and 6 to 11, paragraph (a), are effective for all tax years after December 31, 1986. Section 11, paragraph (b), is effective beginning calendar year 1992.

ARTICLE 12

LIQUOR TAX

Section 1. Minnesota Statutes 1986, section 297C.02, subdivision 1, is amended to read:

Subdivision 1. **DISTILLED SPIRITS AND WINE.** There is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state the following excise tax:

	Standard	Metric
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	\$4.39 per gallon <u>\$5.03</u>	\$1.16 per liter <u>\$1.33</u>
(b) Wine containing 14 percent or less alcohol by volume	\$.27 per gallon <u>\$.30</u>	\$.07 per liter <u>\$.08</u>
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	\$.79 per gallon <u>\$.95</u>	\$.21 per liter <u>\$.25</u>

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(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	\$1.58 per gallon <u>\$1.82</u>	\$.42 per liter <u>\$.93</u>
(e) Wine containing more than 24 percent alcohol by volume	\$3.08 per gallon <u>\$3.52</u>	\$.84 per liter <u>\$.93</u>
(f) Natural and artificial sparkling wines containing alcohol	\$1.50 per gallon <u>\$1.82</u>	\$.40 per liter <u>\$.48</u>

The metric tax is imposed on all products taxable under this subdivision when the net contents are stated in metric units of measure.

In computing the tax on a package of distilled spirits or wine a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

The tax on miniatures of two fluid ounces or less or 50 milliliters or less is ~~12~~ 14 cents.

The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Sec. 2. Minnesota Statutes 1986, section 297C.02, subdivision 2, is amended to read:

Subd. 2. **FERMENTED MALT BEVERAGES.** There is imposed on the direct or indirect sale of fermented malt beverages the following excise tax:

(1) On fermented malt beverages containing not more than 3.2 percent alcohol by weight, ~~\$2~~ \$2.40 per barrel of 31 gallons;

(2) On fermented malt beverages containing more than 3.2 percent alcohol by weight, ~~\$4~~ \$4.60 per barrel of 31 gallons.

The tax is at a proportional rate for fractions of a barrel of 31 gallons.

Sec. 3. Minnesota Statutes 1986, section 297C.03, subdivision 1, is amended to read:

Subdivision 1. **MANNER AND TIME OF PAYMENT; PENALTIES;**

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

DEPOSIT OF TAX PROCEEDS. The tax on wines and distilled spirits on which the excise tax has not been previously paid must be paid to the commissioner by persons having on file with the commissioner a sufficient bond as provided in subdivision 4 on or before the ~~25th~~ 18th day of the month following the month in which the first sale is made in this state by a licensed manufacturer or wholesaler. Every person liable for the tax on wines or distilled spirits imposed by section 297C.02 must file with the commissioner on or before the ~~25th~~ 18th day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in the form prescribed by ~~rule of~~ the commissioner, and must keep records and render reports required by ~~rule of~~ the commissioner. A person liable for any tax on wines or distilled spirits not having on file a sufficient bond must pay the tax within 24 hours after first sale in this state. The commissioner may certify to the commissioner of public safety any failure to pay taxes when due as a violation of a statute relating to the sale of intoxicating liquor for possible revocation or suspension of license.

If a person fails to pay the tax within the time specified or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there is added a penalty equal to ten percent of the remaining unpaid amount. The penalty must be collected as part of the tax. The amount of tax not timely paid, together with the penalty, must bear interest at the rate specified in section 270.75 from the time the tax should have been paid until it is paid.

Sec. 4. Minnesota Statutes 1986, section 297C.03, is amended by adding a subdivision to read:

Subd. 4a. CERTIFIED CHECK. In lieu of the bond required in subdivision 4, a certified check may be filed with the commissioner. The check must be payable to the commissioner in an amount to be established by the commissioner or the commissioner's designee but not to exceed twice the average monthly liability of the taxpayer. The department of revenue shall not pay interest on funds encumbered by the check.

Sec. 5. Minnesota Statutes 1986, section 297C.04, is amended to read:

297C.04 PAYMENT OF TAX; MALT LIQUOR.

The commissioner ~~shall~~ may by rule provide a reporting method for paying and collecting the excise tax on fermented malt beverages. The rules must require reports to be filed with and the excise tax to be paid to the commissioner on or before the ~~25th~~ 18th day of the month following the month in which the importation into or the first sale is made in this state, whichever first occurs. The rules must also require payments in June of 1987 and subsequent years according to the provisions of section 297C.05, subdivision 2; ~~paragraph (b).~~ If the excise tax is not paid when due, the amount due is increased by a penalty of ten percent thereof, and interest on the tax and penalty at an annual rate of 20 percent, adjusted as provided in section 270.75, from the date the tax became due until paid.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 6. Minnesota Statutes 1986, section 297C.05, subdivision 2, is amended to read:

Subd. 2. **MONTHLY ACCELERATED TAX PAYMENTS; PENALTY FOR NONPAYMENT PAYMENT.** (a) Subject to paragraph (b), all taxes shall be due and payable as directed in this chapter, and taxes not paid shall bear interest at the rate specified in section 270.75. The commissioner in issuing a final assessment shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if the commissioner finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this chapter, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If the 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 ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay the tax within the time provided for payment be less than \$10. The commissioner may extend the time for paying the tax without penalty for good cause shown.

(b) Every person liable for tax under this chapter having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25 18, 1987, or June 25 18 of each subsequent year, the taxpayer shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25 18, 1987, or August 25 18 of each subsequent year, the taxpayer shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 7. Minnesota Statutes 1986, section 297C.06, is amended to read:

297C.06 REFUNDS.

Subdivision 1. PRODUCTS DESTROYED. The commissioner may refund to a taxpayer the amount of tax paid under this chapter on intoxicating liquor or malt liquor which becomes unfit for human consumption and is destroyed under an order by a federal, state, or local agency while being held for sale by a licensed retailer. Any destruction must meet the requirements of the environmental laws of this state.

Subd. 2. BAD DEBTS. The commissioner may adopt rules providing a refund of the tax paid under this chapter on intoxicating liquor or wine if the tax paid qualifies as a bad debt under section 166(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. PROOF OF LOSS. Refunds shall be made only if satisfactory proof is presented to the commissioner by the taxpayer and the licensed retailer that the retailer was not indemnified by insurance for the tax. The commissioner may prescribe the method of proof required for obtaining the refund.

The commissioner may refund to a taxpayer the amount of tax paid under this chapter for the breakage of inventory not subject to reimbursement from any insurance proceeds. The method of proof for obtaining the refund will be prescribed by the commissioner.

The commissioner may refund any overpayment of tax imposed under section 297C.02 provided that the claim for refund is filed within three years from the due date of the return for which the refund is claimed. The refund of tax shall be paid out of the general fund and amounts necessary to pay the refunds are appropriated out of the general fund.

Subd. 4. CREDIT AGAINST TAX. The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Subd. 5. CLAIMS; TIME LIMIT. Claims for refund must be filed with the commissioner (1) for refunds under subdivision 1 within one year from the date of the breakage or the destruction order; and (2) for refunds under subdivision 2, within two years of the date the product is sold to the retailer.

Subd. 6. ANNUAL APPROPRIATION. There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

Sec. 8. Minnesota Statutes 1986, section 297C.09, is amended to read:

297C.09 IMPORTATION BY INDIVIDUALS.

A person, other than a person under the age of 49 21 years, entering Minnesota from another state may have in possession one liter of intoxicating liquor or 288 ounces of malt liquor and a person entering Minnesota from a foreign country may have in possession four liters of intoxicating liquor or ten quarts (320 ounces) of malt liquor without the required payment of the Minnesota excise tax. A collector of commemorative bottles, other than a person under the age of 49 21 years, entering Minnesota from another state may have in possession 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax. A person who imports or has in possession untaxed intoxicating liquor or malt liquor in excess of the quantities provided for in this section is guilty of a misdemeanor. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell intoxicating liquor in more than one state. A peace officer, the commissioner, or their authorized agents, may seize untaxed liquor.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 9. [297C.14] PENALTIES.

Subdivision 1. PENALTY ON UNPAID TAX. If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Subd. 2. PENALTY FOR FAILURE TO FILE. If a person fails to make and file a return within the time required by this chapter or an extension of time, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, 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.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax; or (b) \$50.

Subd. 3. COMBINED PENALTIES. Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Subd. 4. WILLFUL FAILURE; FRAUD. If a person willfully fails to file a return or make a payment required by this chapter, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 5. ORDER PAYMENTS CREDITED. All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 6. INTEREST. The amount of tax not timely paid, together with any penalty imposed by this chapter, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

Subd. 7. NEGLIGENCE; INTENTIONAL DISREGARD OF LAW OR RULES. If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of tax together with this penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Subd. 8. FAILURE TO FILE INFORMATIONAL RETURNS. Any person required to file informational returns or reports that fails to do so by the time period established by law, will be assessed a \$25 penalty for each month the return remains unfiled.

Sec. 10. [297C.16] PERSONAL DEBT; LIEN.

The tax imposed by this chapter, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

Sec. 11. REPEALER.

Minnesota Statutes 1986, sections 297C.03, subdivisions 2 and 3, and 297C.05, subdivision 4, are repealed.

Sec. 12. EFFECTIVE DATE.

Sections 1 to 11 are effective June 1, 1987.

ARTICLE 13

CIGARETTE TAX AND SALES

Section 1. Minnesota Statutes 1986, section 297.01, subdivision 2, is amended to read:

Subd. 2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and encased in any irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the

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wrapper or cover of which is made of paper or any other substance or material except tobacco.

Sec. 2. Minnesota Statutes 1986, section 297.01, subdivision 4, is amended to read:

Subd. 4. "Person" means any individual, firm, trade association, company, partnership, joint stock company, joint adventure, corporation, trustee club, syndicate, agency, or receiver, or any legal representative of any of the foregoing engaged in the sale of cigarettes.

Sec. 3. Minnesota Statutes 1986, section 297.01, subdivision 7, is amended to read:

Subd. 7. "Distributor" means any and each of the following:

(1) Any person engaged in the business of selling cigarettes in this state who brings, or causes to be brought, into this state from without the state any packages of cigarettes for sale;

(2) Any person who makes, manufactures, or fabricates cigarettes in this state for sale in this state;

(3) Any person engaged in the business without this state who ships or transports cigarettes to retailers in this state, to be sold by those retailers;

(4) Any person who engages in this state in the business of selling packages of cigarettes which the person purchases unstamped from a licensee under sections 297.01 to 297.13. Any person who is on direct purchase from a cigarette manufacturer and applies cigarette stamps or indicia on at least 50 percent of cigarettes sold by that person.

A distributor who also sells at retail must maintain a separate inventory, substantiated with invoices for cigarettes that were acquired for retail sale.

A distributor may transfer another state's stamped cigarettes to another distributor for the purpose of resale in the other state.

Sec. 4. Minnesota Statutes 1986, section 297.01, subdivision 10, is amended to read:

Subd. 10. "Retailer" means any person engaged in this state in the business of selling cigarettes to ultimate consumers, or offering to sell, cigarettes at retail.

Sec. 5. Minnesota Statutes 1986, section 297.01, subdivision 14, is amended to read:

Subd. 14. "Subjobber" means any person who buys acquires stamped cigarettes and sells them to persons other than ultimate consumers for the primary purpose of resale to retailers, and any licensed distributor who delivers to and sells or distributes stamped cigarettes from a place of business other than that licensed in the distributor's license. The definition of subjobber does not include the occasional sale of stamped cigarettes from one retailer to another.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Notwithstanding the foregoing, "subjobber" shall also mean any person who is a vending machine operator. A vending machine operator is any person whose principal business is operating, or owning and leasing to operators, machines for the vending of merchandise or service.

For the purpose of this section, any subjobber that sells at retail must maintain a separate inventory, substantiated with invoices, that reflect the cigarettes were acquired for retail sale.

Sec. 6. Minnesota Statutes 1986, section 297.02, subdivision 1, is amended to read:

Subdivision 1. **RATES.** A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~49.5 19 mills minus the tax, not more than eight mills, imposed by United States Code, title 26, section 5701, as amended,~~ on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~39.8 38 mills minus the tax, not more than 16.8 mills, imposed by United States Code, title 26, section 5701, as amended,~~ on each such cigarette.

Sec. 7. Minnesota Statutes 1986, section 297.02, subdivision 6, is amended to read:

Subd. 6. **SALES BY STATE.** The state of Minnesota or any of its agencies, instrumentalities, or governmental subdivisions ~~except institutions under the control and management of the commissioner of corrections~~ shall be subject to the tax imposed by this chapter on all cigarettes sold, in the same manner as distributors, if such unit is engaged in the purchase and sale of cigarettes.

Sec. 8. Minnesota Statutes 1986, section 297.03, subdivision 1, is amended to read:

Subdivision 1. **STAMP PUT ON BY DISTRIBUTOR; EXCEPTION.** Except as otherwise provided in this section payment of the tax imposed by section 297.02 shall be evidenced by stamps affixed to each package. Before delivering, or causing to be delivered, any package to any person in this state, ~~other than a licensed distributor,~~ every distributor shall firmly affix to each package of cigarettes stamps in amounts equal to the tax on those cigarettes as provided for in section 297.02.

Sec. 9. Minnesota Statutes 1986, section 297.03, subdivision 5, is amended to read:

Subd. 5. **SALE OF STAMPS.** ~~(a) Except as provided in paragraph (b);~~ The commissioner shall sell stamps to any person licensed as a distributor at a

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discount of ~~two~~ 1.25 percent from the face amount of the stamps for the first ~~\$1,000,000~~ \$1,500,000 of such stamps purchased in any fiscal year; and at a discount of ~~1.25~~ .75 percent on the remainder of such stamps purchased in any fiscal year. The commissioner shall not sell stamps to any other person.

(b) If the tax exceeds ~~12.5 mills a cigarette~~, the discount is ~~1.5 percent~~ from the face amount of the stamps for the first ~~\$1,000,000~~ of the stamps purchased in a fiscal year and one percent for additional stamps purchased during the fiscal year. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

Sec. 10. Minnesota Statutes 1986, section 297.03, subdivision 6, is amended to read:

Subd. 6. **TAX METER MACHINES.** (1) Before January 1, ~~1989~~ 1990, the commissioner may authorize any person licensed as a distributor to stamp packages with a tax meter machine, approved by the commissioner, which shall be provided by the distributor. The commissioner may provide for the use of such a machine by the distributor, supervise and check its operation, provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5, and in that connection require the furnishing of a corporate surety bond, check guarantee bond, or certified check in a suitable amount to guarantee the payment of the tax.

(2) Before January 1, ~~1989~~ 1990, the commissioner may authorize, and after December 31, ~~1988~~ 1989, the commissioner shall require any person licensed as a distributor to stamp packages with a heat-applied tax stamping machine, approved by the commissioner, which shall be provided by the distributor. The commissioner shall supervise and check the operation of the machines and shall provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5. The commissioner may sell heat-applied stamps on a credit basis under conditions prescribed by the commissioner, and in that connection require the furnishing of a corporate surety bond, check guarantee bond, or certified check in an amount suitable to guarantee payment of the tax stamps so purchased by a distributor. The stamps shall be sold by the commissioner at a price which includes the tax after giving effect to the discount provided in subdivision 5. The commissioner shall recover the actual costs of the stamps from the distributor.

(3) If the commissioner finds that a stamping machine is not printing or affixing a legible stamp on the package, the commissioner may order the distributor to immediately cease the stamping process until the machine is functioning properly.

Sec. 11. Minnesota Statutes 1986, section 297.04, subdivision 4, is amended to read:

Subd. 4. **DISTRIBUTOR'S APPLICATION; FEE, BOND; CERTIFIED CHECK; SUBJOBBER'S LICENSE.** (a) Except as otherwise provided in

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clause paragraph (b), each application for a distributor's license shall be accompanied by a fee of \$150 and a corporate surety bond issued by a surety licensed to do business in this state in the sum of \$1,000, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this act. This bond, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license. A separate application for license shall be made for each place of business at which a distributor proposes to engage in business as such under sections 297.01 to 297.13, provided that a separate application for a subjobber's license may be made by a licensed distributor for each place of business (other than that licensed in the distributor's license) to which the distributor delivers and from which the distributor sells or distributes stamped cigarettes.

Each application for a subjobber's license shall be accompanied by a fee of \$12.

A distributor or subjobber applying for a license between July 1 and December 31 of any year shall be required to pay only one-half of the license fee provided for herein.

~~(b) Each application for a distributor's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$75 and the corporate surety bond prescribed by clause (a). Each application for a subjobber's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$6. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. In lieu of the bond required in paragraph (a), a certified check made payable to the commissioner may be filed with the commissioner. The department of revenue shall not pay interest on funds encumbered by the check.~~

Sec. 12. Minnesota Statutes 1986, section 297.04, subdivision 6, is amended to read:

Subd. 6. **EXPIRATION.** Each license issued ~~for any period subsequent to June 30, 1971,~~ shall expire on December 31 following its date of issue unless sooner revoked by the commissioner or unless the business with respect to which the license was issued is transferred. In either case the holder of the license shall immediately surrender it to the commissioner.

Sec. 13. Minnesota Statutes 1986, section 297.04, subdivision 9, is amended to read:

Subd. 9. **REVOCATION.** The commissioner may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of sections 297.01 to 297.13, or any other act applicable to the sale of cigarettes, or any rule promulgated by the commissioner, and may also revoke any such license or licenses of any distributor or subjobber for the violation of sections 297.31 to 297.39, or any other act applicable to the sale of tobacco products, or any rule promulgated by the commissioner in furtherance of sections 297.31 to 297.39. The commissioner may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of sections 325D.31 to 325D.42.

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No license shall be revoked, canceled, or suspended except after notice and a hearing by the commissioner as provided in section 297.09.

Sec. 14. Minnesota Statutes 1986, section 297.07, subdivision 1, is amended to read:

Subdivision 1. **MONTHLY RETURN FILED WITH COMMISSIONER.** On or before the ~~25th~~ 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from without the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. Every licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 15. Minnesota Statutes 1986, section 297.07, subdivision 3, is amended to read:

Subd. 3. **DEALER MAY PROTEST; HEARING.** If, within ~~20~~ 30 days after mailing of notice of the ~~proposed~~ assessment, the distributor or a legal representative shall file a protest to said ~~proposed~~ assessment and request a hearing thereon, the commissioner shall give notice to that distributor or legal representative of the time and place fixed for the hearing, shall hold a hearing in conformity with the provisions of sections 297.01 to 297.13; and pursuant thereto shall issue a final assessment to the distributor or legal representative for the amount found to be due as a result of the hearing. This hearing shall be held within 45 days after filing of the protest. If a protest is not filed within the time herein prescribed, the commissioner shall issue a final assessment to the distributor or legal representative, as such. Any tax due and owing after a final assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 60 days. The tax due must be paid within 60 days after the mailing date of the assessment notice.

Sec. 16. Minnesota Statutes 1986, section 297.07, subdivision 4, is amended to read:

Subd. 4. **MONTHLY ACCELERATED TAX PAYMENTS; PENALTY FOR NONPAYMENT PAYMENT.** (a) Except as provided in paragraph (b), all taxes shall be due and payable not later than the twenty-fifth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate specified in section 270.75. The commissioner in issuing the 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, on finding 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

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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 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.

(b) Every distributor having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25 18, 1987, or June 25 18 of each subsequent year, the distributor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25 July 18, 1987, or August 25 July 18 of each subsequent year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 17. Minnesota Statutes 1986, section 297.07, subdivision 5, is amended to read:

Subd. 5. **RECOVERY BY COMMISSIONER OFFSET.** The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of such a tax, interest, or penalty shall not be a bar to any prosecution under sections 297.04 to 297.13 Upon audit, if a distributor's return reflects an overpayment, the overpayment may only be offset against an additional tax liability for the month immediately preceding or immediately after the month of overpayment.

Sec. 18. Minnesota Statutes 1986, section 297.11, subdivision 3, is amended to read:

Subd. 3. **PACKAGES STAMPED, EXCEPTION.** No distributor shall sell a package of cigarettes not stamped in accordance with the provisions of sections 297.01 to 297.13, except ~~when the sale is made by the distributor to another distributor licensed under sections 297.04 to 297.13~~ or when the sale is made under such circumstances that the tax imposed by sections 297.01 to 297.13 may not legally be levied because of the constitution or laws of the United States.

Sec. 19. Minnesota Statutes 1986, section 297.11, subdivision 5, is amended to read:

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Subd. 5. **TRANSPORTING UNSTAMPED PACKAGES.** No person shall transport into, or receive, carry, or move from place to place in this state, any packages of cigarettes not stamped in accordance with the provisions of this act except in the course of interstate commerce, unless the cigarettes are moving from a public warehouse to a distributor upon orders from the manufacturer or distributor ~~or from one distributor to another~~. This subdivision shall not apply to a person carrying for personal use not more than 200 cigarettes when those cigarettes have had the individual packages or seals thereof broken and are intended for personal use by that person and not to be sold or offered for sale.

Common carriers transporting cigarettes into this state shall file with the commissioner reports of all such shipments other than those which are delivered to public warehouses of first destination in this state which are licensed under the provisions of chapter 231. Such reports shall be filed monthly on or before the 10th day of each month and shall show with respect to deliveries made in the preceding month: the date, point of origin, point of delivery, name of consignee, the quantity of cigarettes delivered and such other information as the commissioner may require.

All common carriers transporting cigarettes into Minnesota shall permit examination by the commissioner of their records relating to the shipment of cigarettes.

Any person who fails or refuses to transmit to the commissioner the required reports or whoever refuses to permit the examination of the records by the commissioner shall be guilty of a misdemeanor.

Sec. 20. Minnesota Statutes 1986, section 297.13, subdivision 1, is amended to read:

Subdivision 1. **CIGARETTE TAX APPORTIONMENT.** Revenues received from taxes, penalties and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue in a separate and special fund, designated as the tobacco tax revenue fund, in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) of this subdivision have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a Minnesota

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resources fund for purposes of natural resources acceleration as provided in chapter 86;

(2) the revenue produced by two mills of the tax on cigarettes weighing not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;

(3) the revenue produced by ~~one-half~~ one mill of the tax on cigarettes weighing not more than three pounds a thousand and ~~one mill~~ two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund, provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax on cigarettes weighing not more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;

(4) the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 21. Minnesota Statutes 1986, section 297.23, subdivision 1, is amended to read:

Subdivision 1. On or before the ~~25th~~ 18th day of each calendar month, every consumer who during the preceding calendar month has acquired title to or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by sections 297.01 to 297.13 has not been paid, shall file a return with the commissioner showing the quantity of cigarettes so acquired. The return shall be made upon a form furnished and prescribed by the commissioner, and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 22. Minnesota Statutes 1986, section 297.26, is amended to read:

297.26 REVENUE DISTRIBUTION.

All revenues derived from taxes, penalties and interest under sections 297.21 to 297.26 shall be deposited by the commissioner in the ~~general~~ tobacco tax

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revenue fund and disposed of in the same manner as provided by section 297.13 for revenues received under sections 297.01 to 297.13.

Sec. 23. Minnesota Statutes 1986, section 297.31, subdivision 2, is amended to read:

Subd. 2. (a) "Tobacco products" means cigars; little cigars as defined ~~herein~~; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 297.01, subdivision 2.

(b) "Little cigar" means any roll for smoking, made wholly or in part of tobacco, which has a factory list price not exceeding \$12 per thousand, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made wholly or in part of tobacco, and where such roll weighs not more than three pounds per thousand.

Sec. 24. Minnesota Statutes 1986, section 297.31, subdivision 3, is amended to read:

Subd. 3. "Person" means any individual, firm, trade association, company, partnership, joint stock company, joint adventure, corporation, trustee, club, syndicate, agency, or receiver, or any legal representative of any of the foregoing engaged in the sale of tobacco.

Sec. 25. Minnesota Statutes 1986, section 297.31, subdivision 7, is amended to read:

Subd. 7. "Retailer" means any person engaged in this state in the business of selling ~~tobacco products to ultimate consumers, or offering to sell, tobacco at retail.~~

Sec. 26. Minnesota Statutes 1986, section 297.32, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of ~~25~~ 35 percent of the wholesale sales price of such tobacco products ~~except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes weighing not more than three pounds per thousand subject to the discount provided in section 297.35, subdivision 4.~~ Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this

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state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 27. Minnesota Statutes 1986, section 297.32, subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of ~~25~~ 35 percent of the cost of such tobacco products; ~~except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes weighing not more than three pounds per thousand.~~

The tax imposed by this subdivision shall not apply if the tax imposed by subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. not more than 50 cigars;
2. not more than ten oz. snuff or snuffpowder;
3. not more than one lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 28. Minnesota Statutes 1986, section 297.32, subdivision 8, is amended to read:

Subd. 8. The state of Minnesota or any of its agencies, instrumentalities, or governmental subdivisions ~~except institutions under the control and management of the commissioner of corrections~~ shall be subject to the tax imposed by sections 297.32 to 297.39 in the same manner as distributors, if such unit is engaged in the purchase and sale of tobacco products.

Sec. 29. Minnesota Statutes 1986, section 297.33, subdivision 4, is amended to read:

Subd. 4. (a) Except as otherwise provided in ~~clause~~ paragraph (b), each application for a distributor's license shall be accompanied by a fee of \$37.50. The application shall also be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of \$1,000, conditioned upon the true and faithful compliance by the distributor with all the provisions of sections 297.31 to 297.39 and the payment when due of all taxes, penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Minnesota. This bond shall be in a form to be fixed by the commissioner and approved by the attorney general. Whenever it is the opinion of the commissioner that the bond given by a licensee is inadequate in amount to fully protect the state, the commissioner

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shall require either an increase in the amount of said bond or additional bond, in such amount as the commissioner deems sufficient. Any bond required by this subdivision, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license.

A separate application for license shall be made for each place of business at which a distributor proposes to engage in business as such under sections 297.31 to 297.39. A separate application for a subjobber's license may be made by a licensed distributor for each place of business, other than that licensed in the distributor's license, to which the distributor sells or distributes tobacco products upon which the tax imposed by this chapter has been imposed to other than the ultimate consumer.

(b) ~~Each application for a distributor's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$18.75 and the corporate surety bond prescribed by clause (a) of this subdivision. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. In lieu of the bond required in paragraph (a), a certified check may be filed with the commissioner. The check must be made payable to the commissioner and in an amount to be established by the commissioner or the commissioner's designee but not less than twice the average monthly liability of the taxpayer. The department of revenue shall pay no interest on funds encumbered by the check.~~

Sec. 30. Minnesota Statutes 1986, section 297.33, subdivision 5, is amended to read:

Subd. 5. (a) ~~Except as otherwise provided in clause (b),~~ Each application for a subjobber's license shall be accompanied by a fee of \$10.

(b) ~~Each application for a subjobber's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$5. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. All licenses expire on December 31 of the year they were issued.~~

Sec. 31. Minnesota Statutes 1986, section 297.35, subdivision 1, is amended to read:

Subdivision 1. On or before the ~~twenty-fifth~~ 18th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less ~~two~~ 1.5

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percent of such liability as compensation to reimburse the distributor for expenses incurred in the administration of sections 297.31 to 297.39.

Sec. 32. Minnesota Statutes 1986, section 297.35, subdivision 3, is amended to read:

Subd. 3. If, within ~~20~~ 30 days after mailing of notice of the ~~proposed~~ assessment, the taxpayer or a legal representative shall file a protest to said ~~proposed~~ assessment and request a hearing thereon, the commissioner shall give notice to that taxpayer or legal representative of the time and place fixed for the hearing, shall hold a hearing on such protest, ~~and shall issue a final assessment to the taxpayer or legal representative for the amount found to be due as a result of the hearing.~~ This hearing shall be held within 45 days after filing of the protest. If a protest is not filed within the time herein prescribed, the ~~commissioner shall issue a final assessment to the taxpayer or legal representative, as such.~~ Any tax due and owing after a ~~final~~ an assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 60 days. Any such assessment made by the commissioner shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 33. Minnesota Statutes 1986, section 297.35, subdivision 5, is amended to read:

Subd. 5. (a) ~~Except as provided in paragraph (b), all taxes shall be due and payable not later than the 25th day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate specified in section 270.75. If any tax required to be paid under the provisions of this section is not paid within the time 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 revenue 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, 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 the commissioner's 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.

(b) Every distributor having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June ~~25~~ 18, 1987, or June ~~25~~ 18 of each subsequent year, the distributor shall remit the actual May liability and one-half of the estimated

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June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before ~~August 25~~ July 18, 1987, or ~~August 25~~ July 18 of each subsequent year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 34. Minnesota Statutes 1986, section 297.35, subdivision 8, is amended to read:

Subd. 8. On or before the ~~twenty-fifth~~ 18th day of each calendar month, every consumer who, during the preceding calendar month, has acquired title to or possession of tobacco products for use or storage in this state, upon which tobacco products the tax imposed by section 297.32 has not been paid, shall file a return with the commissioner showing the quantity of tobacco products so acquired. The return shall be made upon a form furnished and prescribed by the commissioner, and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 35. Minnesota Statutes 1986, section 297.36, is amended to read:

297.36 REFUNDS, CREDITS.

Where tobacco products upon which the tax imposed by sections 297.31 to 297.39 has been reported and paid, are shipped or transported by the distributor to consumers, to be consumed without the state, or to retailers or subjobbers without the state, to be sold by those retailers, or subjobbers without the state, or are returned to the manufacturer by the distributor or destroyed by the distributor, refund of such tax or credit may be made to the distributor in accordance with rules prescribed by the commissioner. Any overpayment of the tax imposed under section 297.32 may be made to the taxpayer in accordance with rules prescribed by the commissioner. The commissioner of finance shall cause any such refund of tax to be paid out of the general fund, and so much of said fund as may be necessary is hereby appropriated for that purpose. Any claims for refund must be filed within three years from the due date of the return for which the refund is claimed.

Sec. 36. [297.41] PERSONAL DEBT; LIEN.

The tax imposed by sections 297.01 to 297.40, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that

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of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

Sec. 37. [297.42] FAILURE TO FILE RETURN.

If a person required by chapter 297 to file a return fails to do so within the time prescribed, or makes, willfully or otherwise, an incorrect, false, or fraudulent return, the person shall, upon written notice and demand, immediately file the return, or corrected return, and at the same time pay any tax due on the basis of it. If the person fails to file the return or corrected return, the commissioner shall make a return, or corrected return, for the person from the commissioner's own knowledge and from information that the commissioner can obtain through testimony, or otherwise, and assess a tax on the basis of it. The tax (less any payments previously made on account of the tax for the taxable period covered by such return) must be paid immediately upon written notice and demand. A return or assessment made by the commissioner is prima facie correct and valid, and the person shall have the burden of establishing its incorrectness or invalidity in an action or proceeding in respect to it.

Sec. 38. [297.43] PENALTIES.

Subdivision 1. PENALTY ON UNPAID TAX. If a tax imposed by chapter 297, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Subd. 2. PENALTY FOR FAILURE TO FILE. If a person fails to make and file a return within the time required under sections 297.07, 297.23, and 297.35, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, 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.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be

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shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax; or (b) \$50.

Subd. 3. COMBINED PENALTIES. Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Subd. 4. WILLFUL FAILURE; FRAUD. If a person willfully fails to file a return or make a payment required by chapter 297, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax, and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 5. ORDER PAYMENTS CREDITED. All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 6. INTEREST. The amount of tax not timely paid, together with any penalty imposed in this section, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

Subd. 7. EXTENSION OF TIME. The commissioner may extend the time for filing returns and remittance of tax, deficiencies, and penalties for not more than 60 days. The commissioner may require that a tentative return be filed at the time fixed for filing the regularly required return and that payment of the tax be made with it on the basis of the tentative return.

When an extension of time for payment has been granted under this section, interest shall be payable at the rate provided in section 270.75 from the date when the payment should have been made, if no extension had been granted, until the tax is paid.

Subd. 8. CIVIL ACTION. The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of the tax, interest, or penalty is not a bar to any prosecution under chapter 297.

Subd. 9. NEGLIGENCE; INTENTIONAL DISREGARD OF LAW OR RULES. If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

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Sec. 39. FLOOR STOCKS TAX.

Subdivision 1. CIGARETTES. A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of cigarettes, on the cigarettes in the person's possession or under the person's control at 12:01 a.m. on June 1, 1987. The tax is imposed at the following rates, subject to the discount in section 297.03:

(1) on cigarettes weighing not more than three pounds a thousand, 7.5 mills on each cigarette;

(2) on cigarettes weighing more than three pounds a thousand, 15 mills on each cigarette.

Each distributor, by June 20, 1987, shall file a report with the commissioner, in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on June 1, 1987, and the amount of tax due on them. The tax imposed by this section less the discount provided in section 297.03, subdivision 5, is due and payable by July 20, 1987, and after that date bears interest at the rate of one percent a month.

Subd. 2. TOBACCO PRODUCTS. A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of tobacco products, at the rate of ten percent of the wholesale sales price of each tobacco product in the person's possession or under the person's control at 12:01 a.m. on June 1, 1987. Each distributor, by June 20, 1987, shall file a report with the commissioner, in the form the commissioner prescribes, showing the tobacco products on hand at 12:01 a.m. on June 1, 1987, and the amount of tax due on them. The tax imposed by this section less the discount provided in section 297.35, subdivision 1, is due and payable by July 20, 1987, and after that date bears interest at the rate of one percent a month.

Subd. 3. DEPOSIT OF PROCEEDS. The revenue from the tax imposed under this section shall be deposited by the commissioner in the tobacco tax revenue fund in the state treasury.

Sec. 40. Minnesota Statutes 1986, section 325D.30, is amended to read:

325D.30 MINNESOTA UNFAIR CIGARETTE SALES ACT; FINDINGS AND POLICY.

The legislature finds that unfair, dishonest and fraudulent business practices exist in transactions involving the sale of, or offer to sell, cigarettes in the wholesale and retail trades in this state and are demoralizing and disorganizing the said trades.

Offering for sale, or sale of cigarettes below cost in the wholesale and retail trade is declared by the legislature to have the intent or effect of injuring a competitor, destroying or lessening competition, and is deemed an unfair and deceptive business practice and an unfair method of competition.

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Such practices affect collection of taxes and license fees imposed on ~~distributors, wholesalers, retailers, and persons engaged in the sale of cigarettes.~~

It is hereby declared to be the policy of the state of Minnesota and the purposes of sections 325D.30 to 325D.42 to protect the public by prohibiting such sales.

Sec. 41. Minnesota Statutes 1986, section 325D.32, subdivision 4, is amended to read:

Subd. 4. "Wholesaler" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business when any part of the business is the sale of cigarettes at wholesale to persons licensed to sell cigarettes by the state or any municipality, and where at all times a stock of cigarettes is available to retailers for resale, or any cigarette manufacturer or manufacturer's representative who sells to retailers or to other persons for resale, and any person defined as a "distributor" under section 297.01, subdivision 7. The term "wholesaler" shall also include a "subjobber" as defined by section 297.01, subdivision 14. This subdivision does not prohibit any person from engaging in business as a retailer as defined in subdivision 5.

Sec. 42. Minnesota Statutes 1986, section 325D.32, subdivision 10, is amended to read:

Subd. 10. ~~(4)~~ (a) "Cost to wholesaler" means the basic cost of the cigarettes, prior to deducting manufacturer's timely payment and stamping discounts and any other discounts or rebates, plus the cost of doing business by the wholesaler, as defined in sections 325D.30 to 325D.42.

~~(2) (b) The cost of doing business by the wholesaler is presumed to be four percentum percent of the basic cost of said the cigarettes, plus cartage to the retail outlet, if furnished or paid for by the wholesaler, in the absence of proof of a lesser or higher cost; except that the cost of doing business by the wholesaler is two percent of the basic cost of said cigarettes, when such cigarettes are sold to a wholesaler, in the absence of proof of a lesser or a higher cost. Such cartage cost is presumed to be one-half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.~~

Sec. 43. Minnesota Statutes 1986, section 325D.32, subdivision 11, is amended to read:

Subd. 11. ~~(4)~~ (a) "Cost of the retailer" means the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in sections 325D.30 to 325D.42.

~~(2) (b) The cost of doing business by the said retailer is presumed to be eight percentum percent of the basic cost of cigarettes in the absence of proof of a lesser or a higher cost.~~

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(3) If any retailer in connection with the purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be, in the absence of a lesser or a higher cost of doing business, the sum of the cost of doing business by the retailer and, to the extent that the retailer shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as defined in subdivision 10; clause (2) (c) If a retailer qualifies for the purchase of cigarettes at a manufacturer's price to wholesaler and ultimately sells the cigarettes at retail, the cost of doing business by the retailer with respect to the cigarettes shall be, in the absence of showing of a lesser or higher cost of doing business, the sum of the cost of doing business by the wholesaler, as defined in subdivision 10, paragraph (b), and the cost of doing business by the retailer, as defined in paragraph (b) of this subdivision.

Sec. 44. Minnesota Statutes 1986, section 325D.33, subdivision 1, is amended to read:

Subdivision 1. It shall be unlawful for any wholesaler, ~~subjobber~~ or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler, ~~subjobber~~ or retailer, as the case may be, as defined in sections 325D.30 to 325D.42 for the purpose or with the effect of injuring a competitor or destroying competition, or for a retailer to induce or to attempt to induce a wholesaler ~~or subjobber~~ to violate the provisions of the Minnesota unfair cigarette sales act. Any wholesaler, ~~subjobber~~ or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

Sec. 45. Minnesota Statutes 1986, section 325D.33, subdivision 2, is amended to read:

Subd. 2. Evidence of advertisement, offering to sell or sale of cigarettes by any wholesaler, ~~subjobber~~ or retailer at less than cost as defined by sections 325D.30 to 325D.42 shall be prima facie evidence of a violation of sections 325D.30 to 325D.42 in civil cases.

Sec. 46. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 3. REBATES OR CONCESSIONS. It is unlawful for a wholesaler to offer a rebate in price, to give a rebate in price, to offer a concession of any kind, or to give a concession of any kind in connection with the sale of cigarettes. For purposes of this chapter, the term "discount" is included in the definition of a rebate.

Sec. 47. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 4. WHOLESALER TO PRESERVE COPIES OF INVOICES. Every person who sells cigarettes to persons other than the ultimate consumer shall prepare for each sale itemized invoices showing the seller's name and address,

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the purchaser's name and address, the date of sale, and all prices and discounts and shall keep legible copies of them for one year from the date of sale.

Sec. 48. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 5. COMMISSIONER'S REFUSAL TO LICENSE. The commissioner may refuse to grant a cigarette distributor or subjobber license to any person who violates the provisions of sections 325D.30 to 325D.42, or any other law applicable to the sale of cigarettes, or any rule adopted by the commissioner for the enforcement or regulation of the sale of cigarettes.

Sec. 49. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 6. VIOLATIONS. If the commissioner determines that a distributor is violating any provision of this chapter, the commissioner must give the distributor a written warning explaining the violation and an explanation of what must be done to comply with this chapter. Within ten days of issuance of the warning, the distributor must notify the commissioner that the distributor has complied with the commissioner's recommendation or request that the commissioner set the issue for a hearing pursuant to chapter 14. If a hearing is requested, the hearing shall be scheduled within 20 days of the request and the recommendation of the administrative law judge shall be issued within five working days of the close of the hearing. The commissioner's final determination shall be issued within five working days of the receipt of the administrative law judge's recommendation. If the commissioner's final determination is adverse to the distributor and the distributor does not comply within ten days of receipt of the commissioner's final determination, the commissioner may order the distributor to immediately cease the stamping of cigarettes. As soon as practicable after the order, the commissioner must remove the meter and any unapplied cigarette stamps from the premises of the distributor.

If within ten days of issuance of the written warning the distributor has not complied with the commissioner's recommendation or requested a hearing, the commissioner may order the distributor to immediately cease the stamping of cigarettes and remove the meter and unapplied stamps from the distributor's premises.

If, within any 12-month period, the commissioner has issued three written warnings to any distributor, even if the distributor has complied within ten days, the commissioner shall notify the distributor of the commissioner's intent to revoke the distributor's license for a continuing course of conduct contrary to this chapter. For purposes of this paragraph, a written warning that was ultimately resolved by removal of the warning by the commissioner is not deemed to be a warning. The commissioner must notify the distributor of the date and time of a hearing pursuant to chapter 14 at least 20 days before the hearing is held. The hearing must provide an opportunity for the distributor to show cause why the license should not be revoked. If the commissioner revokes a distributor's license, the commissioner shall not issue a new license to that distributor for 180 days.

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Sec. 50. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 7. PENALTIES. Any retailer purchasing cigarettes for less than the legal price may be assessed a penalty in the full amount of the difference between the actual purchase price and the legal price under this chapter. This penalty may be collected under the authorities given the commissioner in Minnesota Statutes, chapters 270 and 297, and the penalty shall bear interest at the rate prescribed by section 270.75, subdivision 5. All cigarettes purchased for less than the legal price may be confiscated and disposed of at the discretion of the commissioner pursuant to any laws of the state.

Sec. 51. Minnesota Statutes 1986, section 325D.35, is amended to read:

325D.35 SALES BY A WHOLESALER TO A WHOLESALER.

When one wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in the selling price to the latter, the cost of doing business to the wholesaler, as defined by section 325D.32, but the latter wholesaler, upon resale to a retailer, shall be subject to the provisions of the said section. For the purposes of this section, any sale of cigarettes to a wholesaler that will be placed in the inventory to be sold at retail, must include in the selling price the cost of doing business as defined by section 325D.32.

Sec. 52. Minnesota Statutes 1986, section 325D.38, subdivision 1, is amended to read:

Subdivision 1. COST TO WHOLESALERS AND RETAILERS. In determining cost to the wholesaler and cost to the retailer the court shall receive and consider as bearing on the bona fides of such cost, evidence that any person complained against under any of the provisions of sections 325D.30 to 325D.42 purchased or sold the cigarettes involved in the complaint before the court, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts, or terms of purchase; ~~and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state or sale.~~

Sec. 53. Minnesota Statutes 1986, section 325D.40, subdivision 1, is amended to read:

Subdivision 1. ~~Any corporation, partnership, trade association, or any person or persons~~ who would suffer injury from any threatened violation of sections 325D.30 to 325D.42 may maintain an action to enjoin such actual or threatened violation and proof of actual damages need not be alleged or proved in cases of threatened violation. If a violation or threatened violation of the Minnesota unfair cigarette sales act shall be established, the court shall enjoin such violator or threatened violator, and, in addition thereto, the court shall assess in favor of the plaintiff and against defendant the injuries of the suit

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including reasonable attorneys fees. Where alleged and proved, the plaintiff, in addition to such injunctive relief and cost of suit including reasonable attorneys fees, shall be entitled to recover from defendant the actual damages sustained.

Sec. 54. **REPEALER.**

(a) Minnesota Statutes 1986, sections 297.07, subdivision 6; 297.23, subdivision 5; and 297.35, subdivisions 4, 6, and 7, are repealed.

(b) Minnesota Statutes 1986, sections 325D.32, subdivision 12, and 325D.41, are repealed.

Sec. 55. **EFFECTIVE DATE.**

Sections 1 to 5, 7, 8, 10 to 25, 28 to 30, and 32 to 38 are effective July 1, 1987. Sections 6, 9, 26, 27, the discount rate change in 31, and 39 are effective June 1, 1987. Sections 40 to 53, and 54, paragraph (b), are effective the day following final enactment.

ARTICLE 14

SPECIAL TAXES

Section 1. Minnesota Statutes 1986, section 239.10, is amended to read:

239.10 ANNUAL INSPECTION.

The department shall charge a fee to the owner for the costs of the regular inspection of scales, weights, measures, and weighing or measuring devices. The cost of any other inspection must be paid by the owner if the inspection is performed at the owner's request or if the inspection is made at the request of some other person and the scale, weight, measure, or weighing or measuring device is found to be incorrect. The department may fix the fees and expenses for regular inspections and special services by rule pursuant to section 16A.128, except that no additional fee may be charged for retail petroleum pumps, petroleum vehicle meters, and petroleum bulk meters that dispense petroleum products for which the petroleum inspection fee required by section ~~296.13~~ 4 is collected. Money collected by the department for its regular inspections, special services, fees, and penalties must be paid into the state treasury and credited to the state general fund.

Sec. 2. [239.75] INSPECTION OF PETROLEUM PRODUCTS.

Subdivision 1. INSPECTION TO BE MADE. The department of public service shall make inspection of petroleum products wherever processed, held, stored, or offered for sale or used, and shall secure samples periodically from importations in their original containers to determine their specifications when tested by the methods of the American Society for Testing Materials. Upon the request of the department of public service, a person holding, storing, offering for sale, or using petroleum products shall permit the department of public service to take for testing free samples, not to exceed 32 ounces each, of the products when necessary for the purposes of this chapter. The department of public service shall test samples of petroleum products received and submitted

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by any licensed distributor and shall inform the distributor of the results of the tests.

Subd. 2. WHEN NOT MEETING SPECIFICATIONS. A record of the inspection shall be made. Any material not meeting the specifications under section 3 shall be sealed in the container from which the sample was secured or placed in separate storage under seal until a method of its disposition has been approved by the department of public service.

Subd. 3. CALIBRATION OR GAUGE CHARTS. A person holding petroleum products in storage tanks for sale or for use as special fuel shall maintain a calibration or gauge chart for each tank.

Subd. 4. ENTRY UPON PREMISES. The department of public service may enter into or upon the premises of a distributor, bulk purchaser, or dealer of petroleum products to inspect the receptacles in which the products are stored. A distributor, bulk purchaser, or dealer shall keep the receptacles free from impurities. If the receptacles are found to contain impurities, they must be sealed until a method of disposition of the material has been approved by the department of public service.

Sec. 3. [239.76] SPECIFICATIONS OF PETROLEUM PRODUCTS.

Subdivision 1. GASOLINE. No gasoline shall be sold for use in motor vehicles unless it is free from water, suspended matter, and impurities, and it conforms to the requirements in section 296.01, subdivision 3.

Subd. 2. FUEL OIL; DIESEL FUEL; KEROSENE. No fuel oil, diesel fuel, or kerosene shall be sold unless it conforms to section 296.01, subdivision 4, 4a, or 4b.

Subd. 3. TESTS, HOW MADE. Tests must be made by the weights and measures division of the department of public service in accordance with the methods outlined in the American Society for Testing Materials specifications numbered D-396, D-439, D-910, D-975, and D-3699.

Subd. 4. RESULTS OF TEST SUPPLIED BY SHIPPER TO DISTRIBUTOR. Upon request of a licensed distributor, the shipper shall, at the time of shipment, supply the licensed distributor with the results of tests of the petroleum product shipped to the distributor at destination in Minnesota.

Subd. 5. AVIATION GASOLINE. No aviation gasoline shall be received, sold, stored, or withdrawn from storage in this state unless it conforms to the specifications set forth in American Society for Testing Materials specification number D-910.

Subd. 6. SALES OF CERTAIN PETROLEUM PRODUCTS ON GROSS VOLUME BASIS. The sale of gasoline, number one and number two diesel oils, and number one and number two fuel oils and kerosene from a supplier's terminal rack through retail on any other basis than gross volume is prohibited.

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Subd. 7. ALCOHOL-BLENDED FUELS; DISCLOSURE. A manufacturer, hauler, blender, agent, jobber, consignment agent, importer, or distributor who distributes gasoline containing alcohol shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentages by volume and the types, if more than one percent, of alcohols contained in the gasoline; except if the gasoline is distributed to the ultimate consumer, such as a bulk delivery to a farmer, only the types of alcohol must be disclosed. In determining compliance with this subdivision, the weights and measures division of the department of public service shall allow a one percent tolerance above or below the percentage stated on the documentation.

Sec. 4. [239.78] INSPECTION FEES.

An inspection fee shall be charged on petroleum products when received by the distributor, and on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The department shall adjust the inspection fee to recover the amount appropriated for petroleum product quality inspection expenses and the amount appropriated for the inspection and testing of petroleum product measuring devices as required by chapter 239. The department shall review and adjust the inspection fee as required by section 16A.128, except the review of the fee shall occur annually on or before January 1.

The commissioner of revenue shall credit the distributor for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue is authorized to collect the inspection fees along with any taxes due under chapter 296.

Sec. 5. [239.79] PETROLEUM PRODUCTS; REQUIREMENTS.

Subdivision 1. PRICES POSTED. A gasoline pump in this state shall have the total sales price per gallon posted on the pump in a conspicuous manner.

Subd. 2. GASOLINE-ALCOHOL BLENDS; IDENTIFICATION. When gasoline blended with alcohol is sold, offered for sale, or dispensed for use in motor vehicles, the dispenser shall be clearly marked to identify the type of alcohol, if more than one percent by volume, blended with the gasoline. The marking must consist of a white or yellow adhesive decal at least two inches by six inches with clearly printed black lettering at least one-half inch high and one-eighth inch in stroke. The marking shall be conspicuously displayed on both sides of the dispenser and state that the gasoline "CONTAINS ETHANOL" or "CONTAINS METHANOL" or has been "ETHANOL ENRICHED." This subdivision does not prohibit the posting of other alcohol or additive information.

Sec. 6. [239.80] VIOLATIONS; PENALTIES.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. VIOLATIONS; ACTIONS OF DEPARTMENT. The department, or any of its employees, shall condemn, seize, or destroy any petroleum products processed, held, stored, offered for sale, or used in violation of section 239.10, 239.76, 239.78, or 239.79. Storage tanks containing the petroleum products, and pumps attached to the storage tanks, shall be marked in a manner to be prescribed by the department indicating a violation of this chapter. This marking shall remain on the tank or pump and prevent sale or use of product contained in it until the petroleum product conforms with sections 239.10, 239.76, 239.78, and 239.79.

Subd. 2. PENALTY. Any person who fails to comply with any provision of section 239.10, 239.76, 239.78, or 239.79 shall be guilty of a misdemeanor.

Sec. 7. [270.058] AUTHORITY TO PAY LOCAL TAXES; APPROPRIATION.

The commissioner may pay to any local government unit, any locally imposed sales taxes that may be assessed against the department of revenue. There is appropriated to the commissioner of revenue from the general fund the amount needed to make the payments.

Sec. 8. Minnesota Statutes 1986, section 270.071, is amended by adding a subdivision to read:

Subd. 9. "Small or medium sized community" means a home rule charter or statutory city or town in Minnesota with a population of 100,000 or fewer that is not located in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington counties.

Sec. 9. Minnesota Statutes 1986, section 270.074, subdivision 3, is amended to read:

Subd. 3. (a) The flight property of every airline company shall be assessed at 33-1/3 percent of the value thereof apportioned to this state under subdivision 1, except that quiet aircraft shall be assessed at 40 percent of the value determined under subdivision 1. Quiet aircraft shall include turboprops and aircraft defined as stage III by the Federal Aeronautics Administration. If, in the opinion of the commissioner, other aircraft may be qualified as quiet aircraft, the commissioner may adopt rules providing additional qualifications.

(b) The flight property of an airline company that owns or leases aircraft the majority of which are turboprops, and which provides, during six months or more of the year that taxes are levied, scheduled passenger service to three or more airports inside or outside of this state that serve small or medium sized communities, shall be assessed at 50 percent of the assessment percentage otherwise set by paragraph (a).

Sec. 10. Minnesota Statutes 1986, section 270.075, subdivision 1, is amended to read:

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Subdivision 1. The commissioner shall determine the rate of tax to be levied and collected against the assessed valuation as determined pursuant to section 270.074, subdivision 2, ~~which shall be the average rate of taxes; general, municipal, and local, levied throughout the state for the preceding year. The levy shall be completed on or before the first Monday in October of each year to generate revenues of \$7,600,000 from taxes levied in assessment year 1987 and payable in 1988 and revenues of \$8,400,000 from taxes levied in 1988 and payable in 1989. Thereafter the legislature shall annually establish the amount of revenue to be generated from a tax on aircraft property.~~

Sec. 11. Minnesota Statutes 1986, section 270.10, subdivision 4, is amended to read:

Subd. 4. **ORDERS ASSESSING PERSONAL LIABILITY.** The commissioner may, based upon information available to the commissioner and within the prescribed period of limitations for assessing the underlying tax, assess personal liability against any officer, director, or employee of a corporation, or a member or employee of a partnership, who as an officer, director, employee, or member, falls within the personal liability provisions of section 290.92, chapter 296, ~~or 297, 297A, 297C, or sections 349.212 and 349.2121~~, for taxes arising thereunder which are due and owing by that corporation or partnership. An order assessing personal liability under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action the commissioner deems necessary to preserve the interests of the state while the matter is pending.

Sec. 12. **[271.061] PAYMENT OF TAX PENDING APPEAL.**

When a taxpayer appeals any liability assessed under tax laws of this state subject to the jurisdiction of the tax court, other than an appeal subject to section 278.03, to the tax court, and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner shall be paid when it is due unless permission to continue prosecution of the petition without payment is obtained as provided in this section. The petitioner, upon ten days notice to the commissioner, may apply to the court for permission to continue prosecution of the petition without payment, and, if it is made to appear:

- (1) that the proposed review is to be taken in good faith;
 - (2) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50 percent of the amount due; and
 - (3) that it would work a substantial hardship upon petitioner to pay the liability,
- the court may permit the petitioner to continue prosecution of the petition without payment or may fix a lesser amount to be paid as a condition of continuing the prosecution of the petition.

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Failure to make payment of the amount required when due shall operate automatically to dismiss the petition and the proceedings under it unless the payment is waived by an order of the court permitting the petitioner to continue prosecution of the petition without payment.

Sec. 13. Minnesota Statutes 1986, section 287.05, subdivision 1, is amended to read:

Subdivision 1. A tax of 15 cents is imposed upon each \$100, or fraction thereof, of the principal debt or obligation which is or may be secured by any mortgage of real property situated within the state executed, delivered, and recorded or registered; provided, however, that the tax shall be imposed but once upon any mortgage and extension thereof. If the mortgage describes real estate situated outside of this state, the tax shall be imposed upon that proportion of the whole debt secured thereby as the value of the real estate therein described situated in this state bears to the value of the whole of the real estate described therein. The tax imposed by this section shall not apply to a contract for the conveyance of ~~real estate or~~ any interest in real estate ~~recorded or registered on or after January 1, 1984.~~

Sec. 14. Minnesota Statutes 1986, section 287.10, is amended to read:

287.10 PREPAYMENT OF TAX; EVIDENCE; NOTICE.

A mortgage or papers relating to its foreclosure, assignment, or satisfaction, must not be recorded or registered unless the tax has been paid. A document or any record of the mortgage may not be received in evidence in any court, and is not valid notice, unless the tax has been paid. If the tax is paid, an error in computation or ascertainment of the amount does not affect the validity of the mortgage or the record or foreclosure. This section does not apply to a mortgage ~~or a contract for the conveyance of real estate~~ that is exempt from taxation under section 287.04 or 287.05, subdivision 1.

Sec. 15. Minnesota Statutes 1986, section 287.21, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state shall be granted, assigned, transferred or otherwise conveyed, a tax determined in the following manner. When transfers are made by instruments pursuant to mergers, consolidations, sales or transfers of substantially all of the assets of corporations pursuant to plans of reorganization or there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is \$1,000 or less, the tax shall be \$2.20. When the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$1,000, the tax shall be \$2.20 plus \$1.10 for each \$500 or fractional part of \$500 in excess of \$1,000.

The tax applies against the total consideration, including consideration for any personal property located on the real property conveyed by the deed and

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transferred as part of the total consideration, but excluding the value of any lien or encumbrance remaining on the property at the time of sale.

Sec. 16. Minnesota Statutes 1986, section 287.22, is amended to read:

287.22 EXCEPTIONS.

The tax imposed by section 287.21 shall not apply to:

A. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

B. Any mortgage or any assignment, extension, partial release, or satisfaction thereof.

C. Any will.

D. Any plat.

E. Any lease.

F. Any deed, instrument, or writing in which the United States or any agency or instrumentality thereof ~~or the state of Minnesota or any agency, instrumentality, or governmental or political subdivision thereof~~ is the grantor, assignor, transferor, or conveyor; ~~and any deed, instrument or writing in which any of such unit of government is the~~ grantee or assignee.

~~G.~~ Deeds for cemetery lots.

~~H.~~ G. Deeds of distribution by personal representatives.

~~I.~~ H. Deeds to or from coowners partitioning undivided interests in the same piece of property.

Sec. 17. Minnesota Statutes 1986, section 296.02, is amended by adding a subdivision to read:

Subd. 2a. GASOLINE TAX IMPOSED FOR RAILROAD USE. There is imposed an excise tax, at the rate of 17 cents per gallon on gasoline used in producing and generating power for propelling trains in this state. The tax imposed by this subdivision shall be credited to the general fund. The tax shall be computed by using the ratio of revenue ton miles of passengers, mail, express, and freight carried by the railroad within this state to the total number of revenue ton miles carried by the railroad within and without this state, times the total number of gallons of gasoline used both within and without this state during the filing period. The tax is payable at the times, in the manner, and by the persons specified in sections 296.01 to 296.27.

Sec. 18. Minnesota Statutes 1986, section 296.02, is amended by adding a subdivision to read:

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Subd. 2b. GASOLINE TAX IMPOSED FOR BARGE USE. There is imposed an excise tax, at the rate of 17 cents per gallon on gasoline used in producing and generating power for propelling barges in this state. The tax imposed by this subdivision shall be credited to the general fund. The tax shall be computed by using the ratio of revenue ton miles of freight carried by the barge within this state to the total number of revenue ton miles carried by the barge within and without this state, times the total number of gallons of gasoline used both within and without this state during the filing period. The tax is payable at the times, in the manner, and by the persons specified in sections 296.01 to 296.27. For the purposes of this subdivision and section 296.025, subdivision 2b, a barge will be considered to be operating within this state if it is operating on a river or other body of water that serves to mark a border of this state and if it picks up or delivers its freight at a point within this state.

Sec. 19. Minnesota Statutes 1986, section 296.025, is amended by adding a subdivision to read:

Subd. 2a. TAX IMPOSED FOR RAILROAD USE. There is imposed an excise tax of the same rate per gallon as the gasoline excise tax on special fuel used to propel trains in this state, and not otherwise taxed as gasoline. The tax shall be computed by using the same method as the gasoline excise tax and shall be payable at the times, in the manner, and by the persons specified in this chapter.

Sec. 20. Minnesota Statutes 1986, section 296.025, is amended by adding a subdivision to read:

Subd. 2b. TAX IMPOSED FOR BARGE USE. There is imposed an excise tax of the same rate per gallon as the gasoline excise tax on special fuel used to propel barges in this state, and not otherwise taxed as gasoline. The tax shall be computed by using the same method as the gasoline excise tax and shall be payable at the times, in the manner, and by the persons specified in this chapter.

Sec. 21. Minnesota Statutes 1986, section 296.17, subdivision 3, is amended to read:

Subd. 3. REFUNDS ON GASOLINE AND SPECIAL FUEL USED IN OTHER STATES. Every person regularly or habitually operating motor vehicles upon the public highways of any other state or states and using in said motor vehicles gasoline or special fuel purchased or obtained in this state, shall be allowed a credit or refund equal to the tax on said gasoline or special fuel paid to this state on the gasoline or special fuel actually used in the other state or states. No credit or refund shall be allowed under this subdivision for taxes paid to any state which imposes a tax upon gasoline or special fuel purchased or obtained in this state and used on the highways of such other state, and which does not allow a similar credit or refund for the tax paid to this state on gasoline or special fuel purchased or acquired in such other state and used on the highways of this state. Every person claiming a credit or refund under this subdivision shall file, within 30 days after the tax to such other state, or states, is paid, a report in such form as may be prescribed by the commissioner, together with such proof of the payment of the tax, and of the fact that it was paid on gasoline or special fuel purchased or obtained within this state as the commissioner may require. The claimant may file up to six months from the date the tax was paid to another state but any refund applied for after 30 days

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from date of payment shall be reduced by five percent for each 30-day period or portion thereof following the initial 30-day period a claim on a form prescribed by the commissioner or take the credit on a subsequent tax return within one year of the last day of the month following the end of the quarter when the overpayment occurred.

Sec. 22. Minnesota Statutes 1986, section 296.17, subdivision 7, is amended to read:

Subd. 7. **DEFINITIONS.** As used in subdivisions 7 to 22:

(a) "motor fuel" means a liquid, regardless of its composition or properties, used to propel a motor vehicle;

(b) "commercial motor vehicle" means a passenger vehicle that has seats for more than ~~nine~~ 20 passengers in addition to the driver, ~~a road tractor, a tractor truck, or a truck having more than two axles, which is propelled by motor fuel, but does not include a motor vehicle while used in a ridesharing arrangement as defined in section 169.01, subdivision 63 or a power unit that (1) has a gross weight in excess of 26,000 pounds, or (2) has three or more axles regardless of weight, or (3) when used in combination, the weight of the combination exceeds 26,000 pounds gross vehicle weight;~~

(c) "motor carrier" means a person who operates or causes to be operated a commercial motor vehicle on a highway in this state;

(d) "operation" means operation of commercial motor vehicles whether loaded or empty, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated; and

(e) "highway" means the entire width between the boundary lines of every way publicly maintained when part of the highway is open for the public to travel on.

Sec. 23. Minnesota Statutes 1986, section 296.17, subdivision 11, is amended to read:

Subd. 11. **REPORTS.** Every motor carrier subject to the road tax shall, on or before the last day of April, July, October and January, file with the commissioner such reports of operations during the previous three months as the commissioner may require and such other reports from time to time as the commissioner may deem necessary. The commissioner by rule may exempt from the quarterly reporting requirements of this section those motor carriers whose mileage is all or substantially all of and those motor carriers whose mileage is minimal within this state, or states with which Minnesota has reciprocity and require in such instances an annual affidavit attesting to the intrastate or substantially intrastate character of their operations; provided that the enforcement of subdivisions 7 to 22 is not adversely affected thereby and that the commissioner is satisfied that

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an equitable amount of motor fuel is purchased within this state by such carriers report reflecting the operations of the carrier during the previous year along with payment of any taxes due:

Each report shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

Sec. 24. Minnesota Statutes 1986, section 360.531, subdivision 2, is amended to read:

Subd. 2. **RATE.** The tax shall be at the rate of one percent of value; provided that the minimum tax on an aircraft subject to the provisions of sections 360.511 to 360.67 shall not be less than 25 percent of the tax on said aircraft computed on its base price or \$10 \$50 whichever is the higher.

Sec. 25. **REPEALER.**

(a) Minnesota Statutes 1986, sections 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision 12; 296.22; and 296.28 are repealed.

(b) Minnesota Statutes 1986, section 287.02, is repealed.

(c) Minnesota Statutes 1986, sections 290.531 and 297A.391, are repealed.

Sec. 26. **EFFECTIVE DATES.**

Sections 1 to 7, 11, 12, 17 to 24, and 25, paragraphs (a) and (c), are effective July 1, 1987. Sections 8 to 10 are effective for taxes levied in 1987, payable 1988, and thereafter. Sections 13 to 16 are effective for instruments recorded after May 31, 1987. Section 25, paragraph (b), is effective the day following final enactment.

ARTICLE 15

CHARITABLE GAMBLING

Section 1. Minnesota Statutes 1986, section 349.212, subdivision 1, is amended to read:

Subdivision 1. **RATE.** There is hereby imposed a tax on all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, conducted by organizations licensed by the board at the rate specified in this subdivision. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

On all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, the tax is ten percent of the gross receipts of a

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licensed organization from lawful gambling less prizes actually paid out, payable by the organization.

Sec. 2. Minnesota Statutes 1986, section 349.212, subdivision 4, is amended to read:

Subd. 4. **PULL-TAB TAX.** (a) There is imposed a tax on the sale of each deal of pull-tabs sold by a licensed distributor to a licensed organization, or to an organization holding an exemption identification number. The rate of the tax is ten percent of the face resale value of all the pull-tabs in each deal less the total prizes which may be paid out on all the pull-tabs in that deal. The tax is payable to the commissioner of revenue in the manner prescribed in section 349.2121 and the rules of the commissioner. The commissioner shall pay the proceeds of the tax to the state treasurer for deposit in the general fund. The sales tax imposed by chapter 297A on the sale of the pull-tabs by the licensed distributor to an organization is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs by the organization is exempt from taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs are delivered by the distributor to the licensed or exempt organization, to a common or contract carrier for delivery to the organization, or when received by the organization's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

If a licensed organization or any organization holding an exemption number receives pull-tabs directly from the manufacturer and the manufacturer is not a licensed distributor, the distributor from whom the pull-tabs were purchased is liable for tax when the manufacturer delivers the pull-tabs to the organization, or to a contract or common carrier for delivery to the organization, or when the pull-tabs are received by the organization's authorized representative at the manufacturer's place of business, regardless of the manufacturer's or the distributor's method of accounting or the terms of the sale.

(c) The exemptions contained in section 349.214, subdivision 2, paragraph (b), do not apply to the tax imposed in this subdivision.

Sec. 3. Minnesota Statutes 1986, section 349.212, is amended by adding a subdivision to read:

Subd. 5. **LOCAL GAMBLING TAX.** A statutory or home rule charter city which has one or more licensed organizations operating lawful gambling, and a county which has one or more licensed organizations outside incorporated areas operating lawful gambling, may impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The tax imposed by this subdivision may not exceed three percent of the gross receipts

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of a licensed organization from all lawful gambling less prizes actually paid out by the organization. A city or county may not use money collected under this subdivision for any purpose other than for the purpose of regulating lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling. Any city or county that imposes a tax under this subdivision shall annually by March 15 file a report with the board in a form prescribed by the board showing (1) the amount of revenue produced by the tax during the preceding calendar year, and (2) the use of the proceeds of the tax.

Sec. 4. Minnesota Statutes 1986, section 349.2121, subdivision 4, is amended to read:

Subd. 4. **COLLECTION.** The tax imposed by section 349.212, subdivision 4, for each taxable sale is due and payable to the commissioner monthly on or before the 25th day of the month succeeding the month in which the taxable sale was made. The tax must be reported on a form prescribed by the commissioner.

Sec. 5. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 4a. REFUND. If any deal of pull-tabs registered with the board and upon which the tax imposed by section 349.212, subdivision 4, has been paid is returned unplayed to the distributor, the commissioner of revenue shall allow a refund of the tax paid.

In the case of a defective deal registered with the board and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be in a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision shall be made at the time and in the manner prescribed by the commissioner.

Sec. 6. Minnesota Statutes 1986, section 349.2121, subdivision 6, is amended to read:

Subd. 6. **COLLECTIONS; CIVIL PENALTIES.** (1) The provisions of chapter 297A, relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter apply to the tax, penalties and interest imposed by section 349.212, subdivision 4. The commissioner shall impose civil penalties for violation of this section as provided in ~~chapter 297A section 297A.39~~, and the additional tax and penalties are subject to interest at the rate provided in section 270.75.

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(2) If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall bear interest at the rate stated in section 270.75 from the time the tax should have been paid until paid.

Sec. 7. Minnesota Statutes 1986, section 349.2121, subdivision 7, is amended to read:

Subd. 7. **RULES.** The commissioner ~~shall~~ may adopt rules, including emergency rules, for the administration and enforcement of this section and section 349.212, subdivision 4.

Sec. 8. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 8. **PERSONAL DEBT; LIEN.** The tax imposed by section 349.212 and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person shall be personally liable for any deficiency.

Sec. 9. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 9. **REFUNDS; APPROPRIATION.** A person who has, under 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 of revenue a claim for a refund of the excess. The amount necessary to pay the refunds is appropriated from the general fund to the commissioner.

Sec. 10. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 10. **UNTAXED PULL-TABS.** It is a gross misdemeanor for any person to possess pull-tabs for resale in this state that have not been registered with the board, for which a registration stamp has not been affixed to the flare, and upon which the taxes imposed by section 349.212, subdivision 4, or chapter 297A have not been paid. The executive secretary of the charitable gambling control board or the commissioner of revenue or their designated inspectors and employees may seize in the name of the state of Minnesota any unregistered or untaxed pull-tabs.

Sec. 11. **[349.2122] MANUFACTURERS; REPORTS TO THE COMMISSIONER; PENALTY.**

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

A manufacturer registered with the board who sells pull-tabs to a distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs sold to licensed distributors. The report must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. Any person violating this section shall be guilty of a misdemeanor.

Sec. 12. [349.2123] **CERTIFIED PHYSICAL INVENTORY.**

The commissioner of revenue may, upon request, require a pull-tab distributor to furnish a certified physical inventory of the pull-tabs in stock. The inventory must contain the information required by the commissioner.

Sec. 13. [349.2124] **SALES TO INDIAN TRIBES.**

A distributor may set aside that part of the distributor's stock necessary for the conduct of business in making sales to the established governing body of any Indian tribe recognized by the United States Department of Interior. A distributor shall, when shipping or delivering any stock to an Indian tribal organization, make a true duplicate invoice showing the complete details of the sale or delivery and shall keep the duplicate.

Sec. 14. **EFFECTIVE DATE.**

Sections 2, paragraphs (a) and (b), and 3 to 13 are effective July 1, 1987. Sections 1 and 2, paragraph (c), are effective January 1, 1987.

ARTICLE 16

BOND ALLOCATION

Section 1. Minnesota Statutes 1986, section 474A.02, subdivision 1, is amended to read:

Subdivision 1. **TERMS DEFINED.** For the purposes of sections ~~474A.01~~ 1 to 474A.24 ~~40~~, the terms defined in this section shall have the following meanings: given them.

Sec. 2. Minnesota Statutes 1986, section 474A.02, subdivision 2, is amended to read:

Subd. 2. **ANNUAL VOLUME CAP.** "Annual volume cap" means the aggregate dollar amount of obligations bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of existing federal tax law ~~or a federal volume limitation act~~, may be issued in one year by issuers.

Sec. 3. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2a. BONDING AUTHORITY. "Bonding authority" means all or a portion of the annual volume cap.

Sec. 4. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 2b. CARRYFORWARD. "Carryforward" means the ability to issue obligations in a year subsequent to the year in which an allocation of bonding authority was obtained under sections 1 to 40 as provided in section 146(f) of federal tax law.

Sec. 5. Minnesota Statutes 1986, section 474A.02, subdivision 3, is amended to read:

Subd. 3. CERTIFICATE OF ALLOCATION. "Certificate of allocation" means a certificate provided to an issuer by the department under section 474A.13, subdivision 1.

Sec. 6. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 5a. COMMISSIONER. "Commissioner" means the commissioner of energy and economic development.

Sec. 7. Minnesota Statutes 1986, section 474A.02, subdivision 6, is amended to read:

Subd. 6. DEPARTMENT; DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT. ~~"Department" or "department of energy and economic development"~~ means the department of energy and economic development ~~or its successor agency or agencies with respect to the duties that the department is to perform under sections 474A.01 to 474A.21.~~

Sec. 8. Minnesota Statutes 1986, section 474A.02, subdivision 7, is amended to read:

Subd. 7. ENTITLEMENT ISSUER. "Entitlement issuer" means an issuer to which an allocation is made under ~~section 474A.04, 474A.08, or 474A.09~~ sections 23, subdivision 2a; and 41, subdivisions 1, clause (a), and 2.

Sec. 9. Minnesota Statutes 1986, section 474A.02, subdivision 8, is amended to read:

Subd. 8. EXISTING FEDERAL TAX LAW. ~~"Existing Federal tax law"~~ means those provisions of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is ~~exempt from inclusion in~~ excluded from gross income for purposes of federal income taxation.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 10. Minnesota Statutes 1986, section 474A.02, subdivision 12, is amended to read:

Subd. 12. **ISSUER.** "Issuer" means any entitlement issuer, state issuer, or other issuer.

Sec. 11. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 13a. **MANUFACTURING POOL.** "Manufacturing pool" means the amount of the annual volume cap allocated under section 27, that is available for the issuance of small issue bonds to finance manufacturing projects.

Sec. 12. Minnesota Statutes 1986, section 474A.02, subdivision 14, is amended to read:

Subd. 14. **MANUFACTURING PROJECT.** "Manufacturing project" means properties, real or personal, used in connection with a revenue producing enterprise in connection with assembling, fabricating, manufacturing, mixing, or processing any products of agriculture, forestry, mining, or manufacture. Properties used for storing, warehousing, or distributing qualify under this definition (1) if they are used as part of or in connection with an assembly, fabricating, manufacturing, mixing, or processing facility, or (2) if they are used for the storing of agricultural products and are located outside of the metropolitan area, as defined in section 473.121, subdivision 2. Manufacturing project includes properties, real or personal, used in connection with research and development activity to develop or improve products, production processes, or materials. For purposes of this subdivision, "a product of manufacture" includes information and directions which dictate the functions to be performed by data processing equipment, commonly called computer software, regardless of whether they are embodied in or recorded on tangible personal property. A project qualifies as a manufacturing project only if 75 percent of the proceeds of the proposed obligations will be used for construction, acquisition, installation, or addition of properties described in this subdivision any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

Sec. 13. Minnesota Statutes 1986, section 474A.02, subdivision 16, is amended to read:

Subd. 16. **MULTIFAMILY HOUSING PROJECT POOL.** "Multifamily housing project pool" means a development defined in section 462C.02, subdivision 5, for which the applicable housing plan and program approval requirements of chapter 462C have been met the amount of the annual volume cap allocated under section 27, which is available for the issuance of residential rental project bonds.

Sec. 14. Minnesota Statutes 1986, section 474A.02, subdivision 18, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 18. **NOTICE OF ENTITLEMENT ALLOCATION.** "Notice of entitlement allocation" means a notice provided to an entitlement issuer under section 474A.04, ~~subdivision 5, or 474A.08~~ 474.04, subdivision ~~2~~ 5.

Sec. 15. Minnesota Statutes 1986, section 474A.02, subdivision 19, is amended to read:

Subd. 19. **OTHER ISSUER.** "Other issuer" means ~~any an~~ an entity other than an entitlement issuer or state issuer which may issue obligations subject to an annual volume cap, including ~~but not limited to~~ the University of Minnesota, ~~any a~~ any city, ~~any~~ any town, ~~any~~ any federally recognized American Indian tribe or subdivision thereof located in Minnesota, ~~any~~ any housing and redevelopment authority referred to in chapter 462, or ~~any a~~ any body authorized to exercise the powers of a housing and redevelopment authority, ~~any a~~ any port authority referred to in chapter 458, or ~~any a~~ any body authorized to exercise the powers of a port authority, ~~any an economic development authority referred to in chapter 458C, an area or municipal redevelopment agency referred to in chapter 472, any a~~ any county, or ~~any other~~ any municipal authority or agency established ~~pursuant to~~ under special law, or ~~any an~~ an entity issuing on behalf of the foregoing.

Sec. 16. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 20a. PERMANENTLY ISSUED. Obligations are "permanently issued" if either (1) the obligations have been issued under terms and conditions such that the proceeds are available for the purpose for which they were issued, or (2) ten percent of the proceeds of the obligations, excluding costs of issuance, have been disbursed for the purpose for which they were issued.

Sec. 17. Minnesota Statutes 1986, section 474A.02, subdivision 21, is amended to read:

Subd. 21. **PRELIMINARY RESOLUTION.** "Preliminary resolution" means a resolution adopted by the governing body or board of the issuer, or in the case of the iron range resources and rehabilitation board by the commissioner. The resolution must express a preliminary intention of the issuer to issue obligations for a specific project ~~and must~~ identify the proposed project, and ~~disclose~~ the proposed amount of ~~the obligations~~ qualified bonds to be issued. Preliminary resolutions for mortgage bonds and student loan bonds need not identify a specific project.

Sec. 18. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 22a. PUBLIC FACILITIES POOL. "Public facilities pool" means the amount of the annual volume cap allocated under section 27, which is available for the issuance of public facility bonds or student loan bonds.

Sec. 19. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

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Subd. 23a. QUALIFIED BONDS. "Qualified bonds" means the specific type or types of obligations that are subject to the annual volume cap. Qualified bonds include the following types of obligations as defined in federal tax law:

(a) "public facility bonds" means "exempt facility bonds" as defined in federal tax law, except for residential rental project bonds, which are those obligations issued to finance airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, and qualified hazardous waste facilities;

(b) "residential rental project bonds" which are those obligations issued to finance qualified residential rental projects;

(c) "mortgage bonds";

(d) "small issue bonds" issued to finance manufacturing projects;

(e) "student loan bonds";

(f) "redevelopment bonds"; and

(g) "governmental bonds" with a nonqualified amount in excess of \$15,000,000 as set forth in section 141(b)5 of federal tax law.

Sec. 20. Minnesota Statutes 1986, section 474A.02, subdivision 26, is amended to read:

Subd. 26. **STATE ISSUER.** "State issuer" means the state of Minnesota; the commissioner of iron range resources and rehabilitation board; or other agency, department, board, or commission of the state, which that is authorized to issue obligations and has statewide jurisdiction.

Sec. 21. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 26a. UNIFIED POOL. "Unified pool" means the amount of the annual volume cap allocated under section 29 that is available for the issuance of qualified bonds.

Sec. 22. Minnesota Statutes 1986, section 474A.03, subdivision 1, is amended to read:

Subdivision 1. **ANNUAL VOLUME CAP UNDER EXISTING FEDERAL TAX LAW; POOL ALLOCATIONS.** At the beginning of each calendar year after December 31, 1987, the department commissioner shall determine the aggregate dollar amount of the annual volume cap under existing federal tax law for the calendar year, and of this amount the department commissioner shall determine make the following amounts allocation:

(1) the amount that is allocated to entitlement issuers under section 474A.04 \$74,000,000 to the manufacturing pool;

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(2) the amount initially available for allocation through the pool under section 474A.05, which is the annual volume cap determined under this subdivision less the amount determined under clause (1) \$30,000,000 to the multifamily housing pool; and

(3) the amount available for issuance of qualified mortgage bonds under section 474A.07 \$21,000,000 to the public facilities pool; and

(4) amounts to be allocated as provided in section 23, subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Sec. 23. Minnesota Statutes 1986, section 474A.03, is amended by adding a subdivision to read:

Subd. 2a. ENTITLEMENT ISSUER ALLOCATION. (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities:

(1) \$50,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 29, subdivision 6;

(2) \$20,000,000 per year to the city of Minneapolis;

(3) \$15,000,000 per year to the city of Saint Paul; and

(4) \$3,000,000 to each of the cities of the first class located outside of the metropolitan area as defined in section 473.121, subdivision 2, or an amount equal to the amount of mortgage bonds or residential rental project bonds that each city permanently issued in the previous calendar year, whichever amount is less. If a city is eligible to receive an entitlement allocation under this clause, the amount of the allocation is deducted from the allocations made under clauses (1), (2), and (3) in proportion to the total amount of allocations made in clauses (1), (2), and (3).

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds.

Sec. 24. Minnesota Statutes 1986, section 474A.04, is amended by adding a subdivision to read:

Subd. 1a. ENTITLEMENT RESERVATIONS; CARRYFORWARD; DEDUCTION. An entitlement issuer may retain any unused portion of its entitlement allocation after the first Monday in September if it has submitted to the department before the first Monday in September a letter stating its intent to issue obligations pursuant to its entitlement allocation before the end of the calendar year or within the time permitted under federal tax law. Except as

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provided in section 41, subdivision 2, paragraph (a), any amount returned by an entitlement issuer before the last Monday in October shall be reallocated through the multifamily housing pool. Any amount returned on or after the last Monday in October shall be reallocated under section 29. Beginning with entitlement allocations received in 1987 under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraphs (2) and (3), there shall be deducted from an entitlement issuer's allocation for the subsequent year an amount equal to the entitlement allocation under which bonds are either not issued or carried forward under federal tax law. Except for the Minnesota housing finance agency, any amount of bonding authority that an entitlement issuer carries forward under federal tax law that is not permanently issued by the end of the succeeding calendar year shall be deducted from the entitlement allocation for that entitlement issuer for the next succeeding calendar year. Any amount deducted from an entitlement issuer's allocation under this subdivision shall be divided equally for allocation through the manufacturing pool and the multifamily housing pool.

Sec. 25. Minnesota Statutes 1986, section 474A.04, subdivision 5, is amended to read:

Subd. 5. **NOTICE OF ENTITLEMENT ALLOCATION.** As soon as possible in each calendar year, the ~~department~~ commissioner shall provide to each entitlement issuer a written notice of the amount of its entitlement allocation under this section.

Sec. 26. Minnesota Statutes 1986, section 474A.04, subdivision 6, is amended to read:

Subd. 6. **ENTITLEMENT TRANSFERS.** An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to ~~issuance~~ bonding authority allocated to the original entitlement issuer under this section.

Sec. 27. **[474A.061] ALLOCATION OF MANUFACTURING, MULTIFAMILY HOUSING, AND PUBLIC FACILITIES POOLS.**

Subdivision 1. APPLICATION. An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August. An entitlement issuer may not apply for an allocation from the multifamily housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. ALLOCATION PROCEDURE. From the beginning of the calendar year until the last Monday in October, the commissioner shall allocate available bonding authority under this section on Monday of each week to applications received on or before the Monday of the preceding week.

(a) If there are two or more applications for residential rental project bonds from the multifamily housing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 28, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(b) If there are two or more applications for manufacturing projects from the manufacturing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 28, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(c) If there are two or more applications for public facility bonds from the public facilities pool and there is insufficient bonding authority to provide allocations for all projects in any one week, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Subd. 3. ADDITIONAL DEPOSIT. An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Monday in September only if the issuer has submitted to the department before the first Monday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained.

Subd. 4. RETURN OF ALLOCATION; DEPOSIT REFUND. (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year or within the time period permitted by federal tax law, the issuer must notify the department. If the issuer notifies the department prior to the last Monday in October, the amount of allocation returned must be reallocated through the pool from which it was originally allocated. If the issuer notifies the department on or after the last Monday in October, the amount of allocation returned must be reallocated through the unified pool.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on deposit for the amount of bonding authority returned before the first Monday in December;

(2) one-fourth of the amount on deposit for the amount of bonding authority returned on or after the first Monday in December and before the third Monday in December; and

(3) one-eighth of the amount on deposit for the amount of bonding authority returned on or after the third Monday in December and before the last Monday in December.

No refund shall be available for allocations returned on or after the last Monday in December.

Subd. 5. HIGHER EDUCATION COORDINATING BOARD ALLOCATION. The higher education coordinating board must receive an allocation of bonding authority at the beginning of the calendar year from the public facilities pool of an amount up to \$20,000,000 per year, less any amount carried forward from the previous year for the issuance of student loan bonds. The amount of any allocation received under this subdivision, when added to the allocation received under section 29, subdivision 6, in the previous year, must not exceed \$20,000,000. The higher education coordinating board shall be treated as an entitlement issuer under section 474A.04, subdivision 1a.

Subd. 6. DEADLINE FOR ISSUANCE OF SMALL ISSUE BONDS. If an issuer fails to notify the department before the last Monday in December of issuance of obligations pursuant to an allocation received for a manufacturing project, the allocation is canceled and the bonding authority is allocated to the department of finance for reallocation under section 29, subdivision 6.

Sec. 28. [474A.081] POOL TRANSFERS.

Subdivision 1. AUTHORITY TO TRANSFER BONDING AUTHORITY. If there is insufficient bonding authority in either the manufacturing pool or the multifamily housing pool to provide allocations for applications received in any one week, additional bonding authority for small issue bonds and residential rental project bonds may be obtained under this section.

Subd. 2. TRANSFER LIMITS. No transfer of bonding authority may be made from any pool for qualified bonds not eligible to receive allocations from that pool (i) prior to June 30, or (ii) if, on June 30, allocations of bonding authority have been made from that pool equal to or exceeding 50 percent of the annual volume cap originally allocated to that pool. For 1987, the amount considered originally allocated to each of the pools shall be \$80,000,000 for the manufacturing pool and \$60,000,000 for the multifamily housing pool.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. TRANSFER FROM MINNESOTA HOUSING FINANCE AGENCY ALLOCATION. If there is insufficient bonding authority to provide allocations for all applications for residential rental projects in any one week from the multifamily housing pool, up to \$15,000,000 per year must be transferred to the multifamily housing pool from the Minnesota housing finance agency's entitlement allocation. This deduction must be made prior to transferring bonding authority to the multifamily housing pool as provided in subdivision 4.

Subd. 4. POOL TRANSFERS. If there is insufficient bonding authority to provide allocations for all small issue bonds or residential rental project bonds in any one week, applications for small issue bonds may receive bonding authority from the multifamily housing pool or applications for residential rental project bonds may receive bonding authority from the manufacturing pool, except as provided in subdivision 2. If bonding authority is transferred from one pool to the other pool, applications for small issue bonds must receive priority for allocations from the manufacturing pool, and applications for residential rental project bonds must receive priority for allocations from the multifamily housing pool.

Sec. 29. [474A.091] ALLOCATION OF UNIFIED POOL.

Subdivision 1. UNIFIED POOL AMOUNT. On the day after the last Monday in October any bonding authority remaining unallocated from the manufacturing pool, the multifamily housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Subd. 2. APPLICATION. An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of two percent of the requested allocation. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

Subd. 3. ALLOCATION PROCEDURE. The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in November through and on the last Monday in December. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. Allocations shall be awarded in the following order of priority:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) applications for small issue bonds, with preference given to projects to be located in distressed counties designated under section 297A.257;

(2) applications for residential rental project bonds;

(3) applications for public facility bonds;

(4) applications for redevelopment bonds;

(5) applications for mortgage bonds; and

(6) applications for governmental bonds.

Allocations for mortgage bonds from the unified pool may not exceed:

(a) \$10,000,000 for any one city;

(b) \$20,000,000 for any number of cities in any one county; or

(c) 40 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. MORTGAGE BOND SUNSET. If federal tax law is not amended to permit the issuance of tax-exempt mortgage bonds after December 31, 1988, all remaining bonding authority available for allocation under this section on December 1, 1988, is allocated to the Minnesota housing finance agency, of which at least 50 percent must be reallocated to cities for the issuance of mortgage bonds. If an issuer that receives an allocation for mortgage bonds under this subdivision fails to notify the department of energy and economic development before the last Monday in December of issuance of obligations pursuant to all or a portion of the allocation, any remaining allocation pursuant to which obligations have not been issued is canceled and the bonding authority is allocated to the department of finance for reallocation under section 29, subdivision 6.

Subd. 5. RETURN OF ALLOCATION; DEPOSIT REFUND. (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year or within the time period permitted by federal tax law, the issuer must notify the department. If the issuer notifies the department prior to the last Monday in December, the amount of allocation returned must be reallocated through the unified pool.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on deposit for the amount of bonding authority returned before the first Monday in December;

(2) one-fourth of the amount on deposit for the amount of bonding authority returned on or after the first Monday in December and before the third Monday in December; and

(3) one-eighth of the amount on deposit for the amount of bonding authority returned on or after the third Monday in December and before the last Monday in December.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in December.

Subd. 6. FINAL ALLOCATION; CARRYFORWARD. \$20,000,000 or any bonding authority remaining unallocated from the unified pool after the last Monday in December, whichever is less, is allocated to the higher education coordinating board. Any bonding authority remaining after the deduction for the higher education coordinating board allocation is allocated to the department of finance for reallocation for qualified bonds eligible to be carried forward under federal tax law.

Sec. 30. Minnesota Statutes 1986, section 474A.13, subdivision 1, is amended to read:

Subdivision 1. **ISSUANCE OF CERTIFICATE OF ALLOCATION.** The department shall issue a certificate of allocation for any allocation granted under ~~section 474A.11~~ sections 27 and 29, except as provided in subdivision 4 section 31.

Sec. 31. Minnesota Statutes 1986, section 474A.13, subdivision 4, is amended to read:

Subd. 4. **LIMITATIONS ON THE ISSUANCE OF CERTIFICATES.** No certificate of allocation may be granted under a federal ~~volume limitation act~~ under any of the following circumstances:

(1) tax law for the amount of the allocation requested, when the amount requested added to (i) the aggregate amount of certificates of allocation issued and not expired; (ii) amounts remaining available to be allocated pursuant to section 474A.11; and (iii) entitlement authority allocated pursuant to section 474A.08 and not returned pursuant to section 474A.10, subdivision 3, for reallocation would cause the governmental annual volume cap to be exceeded. If two or more applications for a certificate of allocation are filed with the department on the same day and there is insufficient issuance authority for the applications, certificates shall be issued first for applications made pursuant to subdivision 2 and thereafter for applications made pursuant to subdivision 1; or

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(2) the principal amount of the proposed allocation exceeds \$25,000,000 unless the issuer is the Minnesota housing finance agency or the Minnesota higher education coordinating board, or unless the issue is a pooled or joint issue or any issue of a joint powers board; provided that for joint or pooled issues or issues of a joint powers board the aggregate amount of the issue cannot exceed \$100,000,000.

Sec. 32. Minnesota Statutes 1986, section 474A.13, subdivision 5, is amended to read:

Subd. 5. **CERTIFICATES ARE NOT TRANSFERABLE.** Certificates of allocation are not transferable. An issuer that receives an allocation of ~~issuance~~ bonding authority pursuant to sections ~~474A.01~~ 1 to ~~474A.21~~ 40 to finance a project within the boundaries of the issuer may allow another issuer to issue obligations pursuant to the ~~issuance~~ authority allocation received only if the boundaries of the other issuer are coterminous with the boundaries of the issuer that received the authority allocation.

Sec. 33. **[474A.131] NOTICE OF ISSUE AND NOTICE OF CARRYFORWARD.**

Subdivision 1. NOTICE OF ISSUE. Each issuer that issues bonds with an allocation received under this chapter shall provide a notice of issue to the department on forms provided by the department stating:

- (1) the date of issuance of the bonds;
- (2) the title of the issue;
- (3) the principal amount of the bonds;
- (4) the type of qualified bonds under federal tax law; and
- (5) the dollar amount of the bonds issued that were subject to the annual volume cap.

For obligations that are issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under this law or under federal tax law. Within 30 days after receipt of a notice of issue the department shall refund a portion of the application deposit equal to one percent of the amount of the bonding authority actually issued if a one percent application deposit was made, or equal to two percent of the amount of the bonding authority actually issued if a two percent application deposit was made.

Subd. 2. CARRYFORWARD NOTICE. If an issuer intends to carry forward an allocation received under this chapter, it must notify the department before the last Monday of December. If the notice of carryforward is not provided within the time required, one-quarter of the amount of the deposit

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eligible for refund upon filing of the notice of issue under this section is forfeited.

Sec. 34. Minnesota Statutes 1986, section 474A.14, is amended to read:

474A.14 NOTICE OF AVAILABLE AUTHORITY.

The department shall publish in the State Register at least twice monthly, a notice of the amount of ~~issuance~~ bonding authority, if any, available for allocation pursuant to sections ~~474A.05, 474A.11, 27 and 474A.12~~ 29.

Sec. 35. Minnesota Statutes 1986, section 474A.15, is amended to read:

474A.15 STATE HELD HARMLESS.

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under sections ~~474A.01~~ 1 to ~~474A.21~~ 40.

Sec. 36. Minnesota Statutes 1986, section 474A.16, is amended to read:

474A.16 EXCLUSIVE METHOD OF ALLOCATION.

Sections ~~474A.01~~ 1 to ~~474A.21~~ 40 shall be the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of a federal ~~volume limitation act~~ and existing federal tax law. An issuer of obligations may elect to obtain an allocation of authority under either existing federal tax law, a federal ~~volume limitation act~~, or both.

Sec. 37. Minnesota Statutes 1986, section 474A.17, is amended to read:

474A.17 ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.

Minnesota Statutes, chapter 14, shall not apply to actions taken by any state agency, or entity, ~~or the governor~~ under sections ~~474A.01~~ 1 to ~~474A.21~~ 40.

Sec. 38. Minnesota Statutes 1986, section 474A.18, is amended to read:

474A.18 PROSPECTIVE OVERRIDE OF FEDERAL ~~VOLUME LIMITATION ACT TAX LAW~~.

Sections ~~474A.01~~ 1 to ~~474A.21~~ prospectively 40 override and replace the method of allocating the authority to issue obligations among uses and among issuers as provided in a section 146 of federal volume limitation act tax law to the extent allowed by a federal ~~volume limitation act~~ tax law.

Sec. 39. Minnesota Statutes 1986, section 474A.20, is amended to read:

474A.20 STATE CERTIFICATION.

The commissioner ~~of the department~~ is designated as the state official to provide any preissuance or postissuance certification required by a federal ~~volume limitation act~~ tax law.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 40. Minnesota Statutes 1986, section 474A.21, is amended to read:

474A.21 APPROPRIATION; RECEIPTS.

Any fees collected by the department under sections ~~474A.01~~ 1 to ~~474A.21~~ 40 must be deposited in the general fund. The amount necessary to refund application deposits is appropriated to the department from the general fund for that purpose.

Sec. 41. ALLOCATION FOR REMAINDER OF 1987.

Subdivision 1. MINNESOTA HOUSING FINANCE AGENCY AND POOL ALLOCATION. For the purposes of this section, the terms defined in sections 1 to 21 have the meanings given them in sections 1 to 21. The commissioner shall allocate the annual volume cap for the remainder of 1987 on the day following final enactment as follows:

(a) \$60,000,000 is allocated to the Minnesota housing finance agency less any amount that was allocated to the Minnesota housing finance agency from the department of finance in 1987 under Minnesota Statutes 1986, section 474A.09. This amount is available only for the issuance of mortgage bonds or residential rental project bonds.

(b) \$80,000,000 is allocated to the manufacturing pool, less the sum of (1) the amount of allocations for small issue bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11, and (2) any amount that was allocated for small issue bonds by the department of finance in 1987 under Minnesota Statutes 1986, section 474A.09. Any allocations that were made for small issue bonds under Minnesota Statutes 1986, sections 474A.09 and 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the manufacturing pool.

(c) \$60,000,000 is allocated to the multifamily housing pool, less the amount of allocations for residential rental project bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11. Any allocations that were made for residential project bonds under Minnesota Statutes 1986, section 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the multifamily housing pool.

(d) \$31,190,380 is allocated to the public facilities pool, less the amount of allocations for public facility bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11. Any allocations that were made for public facility bonds under Minnesota Statutes 1986, section 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the public facilities pool. Applications from the Minnesota public facilities authority must receive priority for allocations from the public facilities pool in any given week.

If the amount of bonding authority allocated under subdivision 3 when

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added to the allocation for public facility bonds made from and not returned to the pool under Minnesota Statutes, section 474A.11 exceeds \$31,190,380, the excess must be deducted from the allocation under paragraph (c) and be allocated to the public facilities pool.

Subd. 2. [1987 ENTITLEMENT CITY ALLOCATIONS.] (a) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations shall be treated as entitlement allocations for the purpose of section 24 and any allocations returned must be reallocated through the manufacturing pool. If there is insufficient bonding authority in the manufacturing pool to provide allocations to all eligible projects on any Monday prior to the last Monday in October 1987, after all eligible bonding authority has been transferred to the manufacturing pool as provided in section 28, additional bonding authority must be transferred to the manufacturing pool for allocation on the subsequent Monday from the entitlement city allocations as provided in this subdivision. Each city must transfer bonding authority to the manufacturing pool from its remaining bonding authority in an amount equal to the percentage of the allocation that the city received under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), in relation to the total amount of allocations made under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), multiplied by the amount necessary to provide allocations to all manufacturing projects on the subsequent Monday. No city is required to transfer more bonding authority under this subdivision than the amount of the city's allocation under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2). For any week that a city transfers bonding authority to the manufacturing pool, that city shall receive a priority for allocations from the manufacturing pool up to the amount of bonding authority transferred by that city.

(b) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (3), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations shall be treated as entitlement allocations for the purpose of section 24 and any allocation returned must be reallocated through the multifamily housing pool.

(c) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (5), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations must be treated as entitlement allocations for the purpose of section 24 and any allocations returned must be reallocated through the multifamily housing pool.

Subd. 3. HIGHER EDUCATION COORDINATING BOARD ALLOCATION. The higher education coordinating board shall receive an allocation from the public facilities pool of an amount up to \$20,000,000 less the sum of (1) the amount carried forward from 1986, and (2) any amount allocated to it under Minnesota Statutes 1986, section 474A.09. The higher education coordinating board shall be treated as an entitlement issuer under section 24.

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Subd. 4. APPLICATION OF OTHER LAW. The provisions of sections 32, 35, 36, 37, 38, and 40 apply to the allocations made under this section.

Sec. 42. ALLOCATION VALIDATION.

All allocations made under Minnesota Statutes 1986, chapter 474A, are validated and shall be governed by the provisions of sections 1 to 41.

Sec. 43. Minnesota Statutes 1986, section 462C.11, subdivision 2, is amended to read:

Subd. 2. **PROGRAM REQUIREMENTS.** Mortgage credit certificate programs adopted by the city shall comply with all of the provisions of section 25 of the Internal Revenue Code of 1954, ~~as amended through July 18, 1984~~ 1986.

Sec. 44. Minnesota Statutes 1986, section 462C.11, subdivision 3, is amended to read:

Subd. 3. **CORRECTION AMOUNTS.** Correction amounts determined by the secretary of the treasury because of the failure of a mortgage credit certificate program to comply with a federal statute or regulation shall be assessed ~~pursuant to section 462C.09, subdivision 5~~ against the amount of qualified mortgage bonds allocated by chapter 474A to the issuer which adopted the program. If no allocation exists or it is less than the correction amount determined by the secretary of the treasury, then the amount of the correction amount in excess of the allocation shall be assessed against the multifamily housing pool.

Sec. 45. REPEALER.

Minnesota Statutes 1986, sections 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19, are repealed.

Laws 1981, chapter 222, section 6; and chapter 223, section 6, subdivision 3, are repealed.

Sec. 46. EFFECTIVE DATE.

Sections 1 to 45 are effective the day following final enactment.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

ARTICLE 17

COMPLIANCE

Section 1. [270.052] AGREEMENT WITH INTERNAL REVENUE SERVICE.

Notwithstanding sections 290.61 and 290A.17, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department of revenue and liabilities owing to the Internal Revenue Service, if the Internal Revenue Service agrees to identify taxpayers who have refunds due from the Internal Revenue Service and liabilities owing to the department of revenue. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department of revenue, and the department of revenue may levy against refunds to be paid by the Internal Revenue Service.

Sec. 2. Minnesota Statutes 1986, section 270.066, is amended to read:

270.066 COMMISSIONER TO REQUIRE SOCIAL SECURITY OR IDENTIFYING NUMBERS ON FORMS.

Notwithstanding the provisions of any other law, the commissioner of revenue may require that a form required to be filed with the commissioner include the social security number, federal employer identification number, or Minnesota taxpayer identification number of the taxpayer or applicant.

Sec. 3. Minnesota Statutes 1986, section 270.10, subdivision 1, is amended to read:

Subdivision 1. **IN WRITING; APPROVAL BY ATTORNEY GENERAL.** All orders and decisions of the commissioner of revenue, or any subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. ~~No~~ Any order or decision ~~issued after June 30, 1983,~~ increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$1,000 on real or personal property, or the assessed valuation thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable including penalties and interest, by a sum exceeding \$1,000, and ~~no~~ any order or decision increasing or decreasing any other tax by a sum exceeding \$1,000 exclusive of penalties and interest, ~~shall be made without~~ must bear the written signature or facsimile signature of the commissioner, a deputy commissioner, assistant commissioner, division director, or acting division director in each case or the commissioner's delegate. Written notice of every order granting a reduction, abatement, or refundment exceeding \$5,000 of any tax exclusive of penalties and interest, shall be given within five days to the attorney general. The attorney general shall forthwith examine ~~such~~ the order, and if proper and legal, approve ~~the same~~ it in writing. The attorney general may waive the right of appeal ~~therefrom~~ in from the order on behalf of the state or may appeal from the order ~~in~~ on behalf of the state as

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herein provided; ~~but~~. Written approval of the commissioner or a ~~deputy delegate~~ and written notice to the attorney general, shall not be required with respect to the following orders: (1) orders reducing assessed valuation of property by reason of its classification as a homestead; (2) orders not involving refunds which have the effect only of correcting income and franchise tax assessments to conform to the amounts shown on final returns filed as provided by section 290.42, clause (6); and (3) original orders for the refundment of gasoline and special fuel taxes.

Sec. 4. [270.271] TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.

Subdivision 1. DATE OF DELIVERY. When a document, including a return, claim, or statement, is required to be filed, or a payment is required to be made to the commissioner within a prescribed period, or on or before a prescribed date, and if the document or payment is delivered by United States mail after the period or the date to the place prescribed for filing or payment, then the date of the United States postmark stamped on the cover in which the document or payment is mailed shall be considered the date of delivery or of payment, as the case may be.

Subd. 2. MAILING REQUIREMENTS. Subdivision 1 applies only if:

(1) the postmark date falls within the prescribed period or on or before the prescribed date,

(i) for filing (including any extension granted for the filing) of the document,
or

(ii) for making the payment (including any extension granted for making the payment); and

(2) the document or payment was within the time prescribed in clause (1), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the office of the department of revenue with which the document is required to be filed or to which payment is required to be made.

Subd. 3. UNITED STATES POSTAL SERVICE POSTMARK. Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. RECEIPT DATE OTHERWISE GOVERNS. In any case in

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which the document or payment is not treated as timely filed or paid under this section, the date of receipt by the commissioner, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment.

Sec. 5. [270.651] ERRONEOUS REFUND.

An erroneous refund shall be considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If any part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time. If the erroneous refund results from a mistake of the department, no interest or penalty will be imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

Sec. 6. Minnesota Statutes 1986, section 270.72, subdivision 1, is amended to read:

Subdivision 1. **TAX CLEARANCE REQUIRED.** The state or a political subdivision of the state may not issue, transfer, or renew a license for the conduct of a profession, occupation, trade, or business, if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes \$500 or more in delinquent taxes. A licensing authority that has received a notice from the commissioner may issue, transfer, or renew the applicant's license only if (a) the commissioner issues a tax clearance certificate and (b) the commissioner or the applicant forwards a copy of the clearance to the authority. The commissioner may issue a clearance certificate only if the applicant does not owe the state any uncontested delinquent taxes, penalties, or interest.

Sec. 7. Minnesota Statutes 1986, section 270.72, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given.

(a) "Taxes" are limited to withholding tax as provided in section 290.92, sales and use tax as provided in chapter 297A, and motor vehicle excise tax as provided in chapter 297B. Penalties and interest are limited to penalties and interest due on taxes included in this definition all taxes payable to the commissioner including penalties and interest due on the taxes.

(b) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

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(c) "Applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership. "Applicant" also means an officer of a corporation ~~or~~ a member of a partnership, or an individual who is liable for the delinquent taxes pursuant to section 270.10, subdivision 4, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" also means both the transferor and the transferee of the license.

Sec. 8. Minnesota Statutes 1986, section 270.77, is amended to read:

270.77 SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner.

There must be added to the tax an amount equal to ~~ten~~ 25 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) \$10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) \$5,000 in the case of any other taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6661(b)(2)(C) of the Internal Revenue Code of 1954, as amended through December 31, 1985, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer acted in good faith. The additional tax and penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 9. Minnesota Statutes 1986, section 270A.07, subdivision 1, is amended to read:

Subdivision 1. **NOTIFICATION REQUIREMENT.** ~~On or before December 15~~ Any claimant agency, seeking collection of a debt through set-off against a refund due ~~in the succeeding year~~, shall submit to the commissioner information indicating the amount of each debt and information identifying the debtor, as

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required by section 270A.04, subdivision 3. Subject to the notification deadline specified above Where the notification is received before July 1, the notification shall be effective only to initiate set-off for claims against refunds that would be made in the same calendar year subsequent to the year in which notification is made to the commissioner. Where the notification is received on or after July 1, the notification is effective only to begin set-off for claims against refunds that would be made in the next calendar year.

The claimant agency shall submit to the commissioner the amount of \$3 per certification. The payment must accompany the certification. The claimant agency shall increase the amount of each debt certified by \$3 and this total amount is subject to recapture. If the total debt is not recaptured by the commissioner, the \$3 addition to the debt may be collected by the claimant agency from the debtor and must be considered an obligation of the debtor. The \$3 will not be refunded if the recapture is not accomplished.

Sec. 10. Minnesota Statutes 1986, section 290.53, subdivision 1, is amended to read:

Subdivision 1. **FAILURE TO PAY TAX.** If any tax imposed by this chapter 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 if the taxpayer is not required to pay the amount in dispute pending appeal under section 290.531, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid to the amount required to be shown as tax a penalty of three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate. 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 specified in section 270.75 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 specified in section 270.75 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. 11. Minnesota Statutes 1986, section 290.53, is amended by adding a subdivision to read:

Subd. 1a. APPLICABILITY TO CORPORATIONS. In the case of a corporation, the penalty under subdivision 1 does not apply when:

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(1) the corporation fulfills the requirements of section 290.42, paragraph (6), relating to a seven-month extension for filing the regularly required return and the filing of a tentative return;

(2) the amount of tax, determined without regard to any prepayment of tax, shown on the tentative return, or the amount of tax paid on or before the regular due date of the return, is at least 90 percent of the amount shown on the corporation's regularly required return;

(3) any balance due shown on the regularly required return is paid on or before the due date of the return, including any extensions of time for filing; and

(4) interest on any balance due is paid at the rate specified in section 270.75 from the regular due date of the return until the tax is paid.

Sec. 12. Minnesota Statutes 1986, section 290.53, subdivision 2, is amended to read:

Subd. 2. **FAILURE TO MAKE AND FILE RETURN.** 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, there shall be added to the tax ~~or subtracted from the refund in lieu of the penalty provided in subdivision 1:~~ ten ~~three~~ percent of the amount of tax ~~unpaid not paid on or before the date prescribed for payment of the tax~~ if the failure is for not more than 30 days with an additional five percent ~~for of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 23 percent in the aggregate; or ten percent of the amount of the refund claimed if the failure is for more than 60 but less than 90 days (determined with regard to any extensions of time for filing); 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.~~

In addition to the penalty imposed above, in the case of a failure to file a return of tax imposed by this chapter, other than a tax return of an individual, within 60 days of the date prescribed for filing of the return (determined with regard to any extensions of time for filing), there shall be added to the tax or subtracted from the refund the addition to tax under this subdivision shall not be less than the lesser of (i) ~~\$100~~ \$200 or (ii) ~~400~~ the greater of (a) 25 percent of either the amount of required to be shown as tax which is due or the amount of the refund on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

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 specified in section 270.75 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.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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. 13. Minnesota Statutes 1986, section 290.53, is amended by adding a subdivision to read:

Subd. 2a. COMBINED PENALTIES. Where penalties are imposed under subdivisions 1 and 2 of this section, the penalties imposed under both subdivisions combined, except for the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Sec. 14. Minnesota Statutes 1986, section 290.53, subdivision 3a, is amended to read:

Subd. 3a. INTENTIONAL DISREGARD OF LAW OR RULES. If any part of any underpayment resulting from an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ~~five~~ ten percent of such additional assessment. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by this chapter. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 15. Minnesota Statutes 1986, section 290.53, subdivision 4, is amended to read:

Subd. 4. FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS. In addition to any other penalties prescribed, (a) any person required by this chapter to make a return, who knowingly fails to make it at the time required by law, is guilty of a gross misdemeanor; (b) any person who willfully makes and subscribes any return, statement, or other document knowing it to be false as to any material matter is guilty of a felony; (c) any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter is guilty of a felony; and (d) any person who willfully fails to pay the tax at the time required by law, with the intent to evade or defeat the tax, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 16. Minnesota Statutes 1986, section 290.56, subdivision 3, is amended to read:

Subd. 3. **FAILURE TO REPORT CHANGE OR CORRECTION OF FEDERAL RETURN.** If a taxpayer ~~shall fail~~ fails to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or ~~shall fail~~ fails to file a copy of an amended return ~~within 90 days~~ as required by subdivision 2, the commissioner may, within six years ~~thereafter~~ after the report should have been filed, recompute the tax, including a ~~refundment thereof~~ refund, based upon ~~such~~ information as may be available to the commissioner, notwithstanding any period of limitations to the contrary.

~~If a taxpayer reports the change, correction, or renegotiation, or files the amended return after the 90-day period required by subdivision 2 has expired, the time limit for the commissioner to recompute and reassess the tax due under this chapter, including making a refund, is the time limit provided in subdivision 4 determined from the date the report or amended return was filed with the commissioner.~~

Sec. 17. Minnesota Statutes 1986, section 290.56, subdivision 4, is amended to read:

Subd. 4. **REPORT MADE OF CHANGE OR CORRECTION OF FEDERAL RETURN.** If a taxpayer is required to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or to file an amended return as required by subdivision 2 and does report ~~such~~ the change or files a copy of ~~such~~ the amended return ~~within 90 days~~, the commissioner may recompute and reassess the tax due under this chapter, including a ~~refundment thereof~~ refund (a) within one year after ~~such~~ the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary or (b) within the period set forth in section 290.49, whichever period is greater. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any other law to the contrary.

Sec. 18. Minnesota Statutes 1986, section 290.92, subdivision 15, is amended to read:

Subd. 15. **PENALTIES; FAILURE TO PAY TAX.** (1) 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, there shall be added to the tax a penalty equal to ~~ten~~ three 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~~ three percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding ~~25~~ 24 percent in the aggregate. The amount of the tax together

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with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount 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 added shall be collected in the same manner as the tax.

(1a) In the case of a failure to make and file quarterly returns with the commissioner as required by this section, there shall be added to the tax a penalty equal to three percent of the amount of tax not 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 of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 23 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount 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 added shall be collected in the same manner as the tax.

(1b) In the case of a failure to file a return of tax imposed by this chapter within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under paragraph (1a) of this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

(1c) Where penalties are imposed under paragraphs (1) and (1a) of this subdivision, except for the minimum penalty under paragraph (1b), the combined penalty percentage shall not exceed 38 percent in the aggregate.

(2) 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, willfully fails to withhold the tax or make the deposits, files a false or fraudulent return, willfully fails to make the payment or deposit, or willfully attempts in any manner to evade or defeat the tax or the payment or deposit of it, there shall also be imposed on the employer as a penalty an amount equal to 50 percent of the amount of tax, less any amount paid or deposited by the employer on the basis of the false or fraudulent return or deposit, that should have been properly withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. 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.

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(3) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of the statements, and quarterly returns, to the commissioner, willfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements, and quarterly returns, to the commissioner, or willfully fails to furnish a statement or the reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, there shall be imposed on the person a penalty of \$50 for each act or failure to act, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed \$25,000. The penalty imposed by this paragraph is 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, paragraph (8).

(4) In addition to any other penalties prescribed, any person required to withhold a tax on wages, file quarterly returns, and make payments or deposits to the commissioner of amounts withheld, as required by this section, who attempts to evade the tax by (i) willfully failing to withhold the tax, file the return, or make the payment or deposit, or (ii) willfully preparing or filing a false return, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony.

(5) In lieu of any other penalty provided by law, except the penalty provided by paragraph (3), any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who willfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, is guilty of a gross misdemeanor.

(6) Any employee required to supply information to an employer under the provisions of subdivision 5, who willfully fails to supply information or willfully supplies false or fraudulent information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or 3, is guilty of a gross misdemeanor.

(7) 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 an officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(8) All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

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(9) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate to an employer which the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance. The penalty is immediately due and payable and may be collected in the same manner as any delinquent income tax.

(10) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate required by subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty is immediately due and payable and may be collected in the manner provided in subdivision 6, paragraph (8).

(11) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this section, of a return, affidavit, claim, or other document, which is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a gross misdemeanor, unless the tax involved exceeds \$300, in which event the actor is guilty of a felony.

(12) Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 19. Minnesota Statutes 1986, section 290A.11, subdivision 2, is amended to read:

Subd. 2. **FRAUDULENT CLAIM; PENALTY.** In any case in which it is determined that the claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full. If the claim has been paid, the amount disallowed shall be recovered by assessment and collection in the manner provided in chapter 290 for collection of income tax. The assessment shall bear interest from the date the claim is paid by the state until the date of repayment by the claimant, at the rate specified in section 270.75.

Any person who knowingly prepares, assists in preparing, or files a false or excessive claim or claims with the intent of defrauding the state of Minnesota, is guilty of an offense and may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, exceeds \$2,500; or

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, is more than \$300, but not more than \$2,500; or

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(3) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000; or both, if the amount of the claim or claims does not exceed \$300.

Notwithstanding the provisions of section 628.26, or any other provisions of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 20. Minnesota Statutes 1986, section 291.131, subdivision 1, is amended to read:

Subdivision 1. **FAILURE TO PAY TAX.** 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~~ three percent of the unpaid tax shall be added to the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 24 percent in the aggregate.

Sec. 21. Minnesota Statutes 1986, section 291.131, subdivision 2, is amended to read:

Subd. 2. **FAILURE TO MAKE AND FILE RETURN.** 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 due to reasonable cause,~~ a penalty of ~~ten~~ three percent of the amount of tax not paid on or before the date prescribed for payment of the tax shall be added to the tax if the failure is for not more than 30 days with an additional five percent ~~for~~ of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which such failure continues, not exceeding ~~25~~ 23 percent in the aggregate. ~~This penalty shall be in lieu of the penalty provided in subdivision 1.~~

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

Sec. 22. Minnesota Statutes 1986, section 291.131, is amended by adding a subdivision to read:

Subd. 2a. **COMBINED PENALTIES.** Where penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined shall not exceed 38 percent in the aggregate.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 23. Minnesota Statutes 1986, section 291.131, subdivision 4, is amended to read:

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.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 24. Minnesota Statutes 1986, section 296.18, subdivision 7, is amended to read:

Subd. 7. **AVIATION GASOLINE TAX REFUND CLAIMS, CRIMINAL PENALTY.** In addition to the penalty prescribed in subdivision 6, any person who willfully makes a false claim for any refund provided for in subdivision 4 shall be guilty of a felony. The term "person," as used in this subdivision, 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.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper courts within six years after the commission of the offense.

Sec. 25. Minnesota Statutes 1986, section 297A.07, is amended to read:

297A.07 REVOCATION OF PERMITS.

Whenever any person fails to comply with any provision of sections 297A.01 to 297A.44 or any rule of the commissioner adopted under sections 297A.01 to 297A.44, the commissioner, upon hearing, after giving the person 30 days' notice in writing specifying the time and place of hearing and the reason for the proposed revocation and requiring the person to show cause why the permit or permits should not be revoked, may for reasonable cause, revoke or suspend any one or more of the permits held by such person. The notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency. The commissioner shall not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the aforementioned provisions and rules. The commissioner may condition the issuance of a new permit to such applicant on the supplying of such security in addition to that authorized by section 297A.28 as is reason-

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ably necessary to insure compliance with the aforementioned provisions and rules.

Notwithstanding the provisions of section 297A.43, the commissioner may disclose information identifying the holder of a revoked permit and the basis for the revocation.

Sec. 26. Minnesota Statutes 1986, section 297A.151, is amended to read:

297A.151 TAX ON LIQUOR AND BEER; DELINQUENCY.

Subdivision 1. **POSTING, NOTICE.** Notwithstanding ~~section~~ sections 290.61 and 297A.43, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all ~~permit holders~~ taxpayers who are required to withhold or collect the tax imposed by ~~section~~ sections 290.92 or 297A.02; subdivision 3, and who are 30 days or more delinquent in either filing a sales tax return or paying the sales tax. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the ~~permit holder~~ taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a ~~permit holder~~ taxpayer previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

Subd. 2. **SALES PROHIBITED.** Beginning the third business day after the list is posted, no wholesaler, manufacturer, or brewer may sell or deliver any product to a ~~permit holder~~ taxpayer included on the posted list.

Subd. 3. **PENALTY.** A wholesaler, manufacturer, or brewer of intoxicating liquor or nonintoxicating malt liquor who violates subdivision 2 is subject to the penalties provided in section 340A.304.

Sec. 27. Minnesota Statutes 1986, section 297A.26, subdivision 1, is amended to read:

Subdivision 1. The taxes imposed by sections 297A.01 to 297A.44 shall be due and payable to the commissioner monthly on or before the ~~25th~~ 20th day of the month next succeeding the month in which the taxable event occurred or succeeding such other reporting period as the commissioner may prescribe.

Sec. 28. Minnesota Statutes 1986, section 297A.27, subdivision 1, is amended to read:

Subdivision 1. Except as provided in section 297A.275, on or before the ~~25th~~ 20th day of each month in which taxes imposed by sections 297A.01 to 297A.44 are payable, a return for the preceding reporting period shall be filed with the commissioner in such form as the commissioner may prescribe, verified

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by a written declaration that it is made under the criminal penalties for willfully making a false return, and in addition shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid. Any person making sales at retail at two or more places of business may file a consolidated return subject to such rules as the commissioner may prescribe.

Sec. 29. Minnesota Statutes 1986, section 297A.275, is amended to read:

297A.275 ACCELERATED PAYMENT OF JUNE LIABILITY.

Every vendor having a liability of \$1,500 or more in May ~~1982~~ 1988 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June ~~25~~ 20, ~~1982~~ 1988, or June ~~25~~ 20 of each subsequent year, the vendor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August ~~25~~ 20, ~~1982~~ 1988, or August ~~25~~ 20 of each subsequent year, the vendor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 30. Minnesota Statutes 1986, section 297A.39, subdivision 1, is amended to read:

Subdivision 1. **FAILURE TO PAY.** If any tax imposed by sections 297A.01 to 297A.44, or any portion thereof, is not paid within the time herein specified for the payment, or an extension thereof, or within 30 days after final determination of an appeal to the tax court relating thereto if the taxpayer is not required to pay the amount in dispute pending appeal under section 297A.391, there shall be added thereto a ~~specific~~ penalty equal to ~~ten~~ three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 31. Minnesota Statutes 1986, section 297A.39, subdivision 2, is amended to read:

Subd. 2. **FAILURE TO FILE RETURNS.** In case of any failure to make and file a return within the time prescribed by sections 297A.01 to 297A.44 or an extension thereof, there shall be added to the tax ~~in lieu of the ten percent specific penalty provided in subdivision 1~~ ten three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is

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for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding ~~25~~ 23 percent in the aggregate. ~~If the penalty as computed does not exceed \$10, a minimum penalty of \$10 shall be assessed.~~ The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, 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.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax or (b) \$50.

Sec. 32. Minnesota Statutes 1986, section 297A.39, is amended by adding a subdivision to read:

Subd. 2a. COMBINED PENALTIES. Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

Sec. 33. Minnesota Statutes 1986, section 297A.39, subdivision 4, is amended to read:

Subd. 4. **PENALTIES; FAILURE TO FILE OR PAY.** In addition to any other penalties prescribed, any person who willfully fails to make a return or willfully makes a false return or willfully fails to pay over taxes imposed by this chapter collected for or on behalf of the state, or attempts in any manner to evade or defeat the taxes imposed by this chapter is guilty of a gross misdemeanor unless the amount of the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act in respect to which the violation occurs. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 34. Minnesota Statutes 1986, section 297B.10, is amended to read:

297B.10 PENALTIES.

(1) Any person, including persons other than the purchaser, who prepares,

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completes or submits a false or fraudulent motor vehicle purchaser's certificate with intent to defeat or evade the tax imposed under this chapter or any purchaser who fails to complete or submit a motor vehicle purchaser's certificate with intent to defeat or evade the tax or who attempts to defeat or evade the tax in any manner, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act with respect to which the violation occurs. Notwithstanding the provisions of section 628.26 or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this section, in the proper court within six years after the commission of the offense.

(2) Any person who violates any of the provisions of this chapter, unless the violation be of the type referred to in clause (1), is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days, or both.

Sec. 35. Minnesota Statutes 1986, section 297D.02, is amended to read:

297D.02 ADMINISTRATION.

The commissioner of revenue shall administer this chapter. Payments required by this chapter must be made to the commissioner on the form provided by the commissioner. Dealers are not required to give their name, address, social security number, or other identifying information on the form. The commissioner shall collect all taxes under this chapter.

Sec. 36. Minnesota Statutes 1986, section 297D.07, is amended to read:

297D.07 MEASUREMENT.

For the purpose of calculating the tax under section 297D.08, ~~an ounce a~~ gram of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession. The weight of the marijuana or controlled substance includes all material, compound, mixture, or preparation that is added to the marijuana or controlled substance.

Sec. 37. Minnesota Statutes 1986, section 297D.09, is amended to read:

297D.09 ~~FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX PENALTIES; CRIMINAL PROVISIONS.~~

Subdivision 1. **PENALTIES.** Any dealer violating this chapter is subject to a penalty of 100 percent of the tax in addition to the tax imposed by section 297D.08. The penalty will be collected as part of the tax.

Subd. 1a. **CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.**

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In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. **STATUTE OF LIMITATIONS.** Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this section, in the proper court within six years after the commission of this offense.

Sec. 38. Minnesota Statutes 1986, section 297D.10, is amended to read:

297D.10 STAMP PRICE.

Official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances shall be purchased from the ~~department~~ commissioner. The purchaser shall pay 100 percent of face value for each stamp, label, or other indicia at the time of the purchase. ~~The department shall make the stamps, labels, or other indicia in denominations in multiples of ten dollars.~~

Sec. 39. Minnesota Statutes 1986, section 297D.12, subdivision 1, is amended to read:

Subdivision 1. **ASSESSMENT PROCEDURE.** An assessment for a dealer not possessing valid stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided in section 270.70. The commissioner shall assess a tax and applicable penalties based on personal knowledge or information available to the commissioner; mail the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax and penalty; demand its immediate payment; and, if payment is not immediately made, collect the tax and penalty by any method prescribed in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. ~~Section 270.70, subdivision 4, paragraph (a), does not apply to this chapter.~~

Sec. 40. Minnesota Statutes 1986, section 297D.13, is amended to read:

297D.13 CONFIDENTIAL NATURE OF INFORMATION.

Subdivision 1. DISCLOSURE PROHIBITED. Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a report or return required by this chapter, or any information obtained from a dealer; nor can any information contained in such a report or return or obtained from a dealer be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the ~~taxpayer~~ dealer making the return.

Subd. 2. PENALTY FOR DISCLOSURE. Any person violating this section is guilty of a gross misdemeanor.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. STATISTICS. This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports.

Sec. 41. INSTRUCTIONS TO REVISOR.

The revisor of statutes shall renumber section 297A.151 of Minnesota Statutes as section 270.73. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

The revisor of statutes shall renumber section 290.53, subdivision 3, of Minnesota Statutes as section 290.53, subdivision 3a; and section 290.53, subdivision 3a, of Minnesota Statutes as section 290.53, subdivision 3. The revisor shall correct any internal references or cross references accordingly.

Sec. 42. REPEALER.

(a) Minnesota Statutes 1986, section 270.75, subdivision 8 is repealed.

(b) Minnesota Statutes 1986, section 297A.26, subdivision 3, is repealed.

Sec. 43. EFFECTIVE DATE.

Sections 1 to 3, 5 to 7, 15 to 17, 19, 23, 24, 26, 33 to 36, 39, 40, subdivision 1, and 41, are effective the day after final enactment. Section 4 is effective for returns or payments due after December 31, 1987. Section 8 is effective for returns filed after June 30, 1987. Section 9 is effective for notifications received after June 30, 1987. Sections 10, 13, and 14 are effective for taxable years beginning after December 31, 1986. Section 11 is effective for taxable years beginning after December 31, 1985. Section 12 is effective for taxable years beginning after December 31, 1986, except the language in the first and second paragraphs relating to penalties where the return is filed more than 60 days late is effective as follows: the stricken language in the first paragraph relating to delinquent filed refund returns is effective the day following final enactment, and the amendments to the second paragraph are effective for taxable years beginning after December 31, 1985. Section 18 is effective for returns and payments becoming due after December 31, 1987, except that clause (12) is effective the day after final enactment. Sections 20 to 22 are effective for estates of decedents dying after June 30, 1987. Section 25 is effective for revocations occurring after the day of final enactment. Sections 27 to 32 and 42, paragraph (b), are effective for taxes and returns becoming due after December 31, 1987. Sections 37, 38, 40, subdivision 2, and 42, paragraph (a), are effective July 1, 1987.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

ARTICLE 18

BUDGET AND CASH FLOW RESERVE

Section 1. Minnesota Statutes 1986, section 16A.15, subdivision 1, is amended to read:

Subdivision 1. **REDUCTION.** (a) If the commissioner determines that probable receipts for the general fund will be less than anticipated, and that the amount available for the remainder of the biennium will be less than needed, the commissioner shall, with the approval of the governor, and after consulting the legislative advisory commission, reduce the amount in the budget and cash flow reserve account established in subdivision 6 as needed to balance expenditures with revenue. ~~An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing allotments.~~

(b) An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing unexpended allotments of any prior appropriation or transfer. Notwithstanding any other law to the contrary, the commissioner is empowered to defer or suspend prior statutorily created obligations which would prevent effecting such reductions.

(c) If the commissioner determines that probable receipts for any other fund, appropriation, or item will be less than anticipated, and that the amount available for the remainder of the term of the appropriation or for any allotment period will be less than needed, the commissioner shall notify the agency concerned and then reduce the amount allotted or to be allotted so as to prevent a deficit.

(e) (d) In reducing allotments, the commissioner may consider other sources of revenue available to recipients of state appropriations and may apply allotment reductions based on all sources of revenue available.

(d) (e) In like manner, the commissioner shall reduce allotments to an agency by the amount of any saving that can be made over previous spending plans through a reduction in prices or other cause.

Sec. 2. Minnesota Statutes 1986, section 16A.15, subdivision 6, is amended to read:

Subd. 6. **BUDGET AND CASH FLOW RESERVE ACCOUNT.** A budget and cash flow reserve account is created in the general fund in the state treasury. The commissioner of finance shall, as authorized from time to time by law, restrict part or all of the budgetary balance in the general fund for use as the budget and cash flow reserve account. The commissioner of finance on July 1, 1987, shall transfer to the budget and cash flow reserve account the amount necessary to bring the total amount, including any existing balance in the account on June 30, 1987, to \$250,000,000. The amounts restricted shall remain in the account until drawn down under subdivision 1.

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Sec. 3. Minnesota Statutes 1986, section 16A.1541, is amended to read:

16A.1541 ADDITIONAL REVENUES; PRIORITY.

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money in the following order of priority:

(1) ~~pay the refund of occupation taxes under Laws 1985, First Special Session chapter 14, article 18, section 7;~~

(2) ~~reduce property tax levy recognition percent under section 121.904, subdivision 4c; and~~

(3) ~~increase the school aids payment current year percentage under section 121.904, subdivision 4d the amount necessary to reduce the property tax levy recognition percent under section 121.904, subdivision 4c, to 24 percent;~~

(2) the remainder (i) one-half to the greater Minnesota fund, but not to exceed \$120,000,000 and (ii) one-half to the budget and cash flow reserve account until the total amount in the account equals \$550,000,000.

The amounts necessary to meet the requirements of clauses (1); and (2); and (3) are appropriated from the general fund.

Sec. 4. Minnesota Statutes 1986, section 16A.275, is amended to read:

16A.275 DAILY RECEIPTS DEPOSITED.

Except as otherwise provided by law, an agency shall deposit receipts totaling \$250 or more in the state treasury daily. The depositing agency shall send a report to the commissioner on the disposition of receipts since the last report. The commissioner shall credit the deposits received during a month to the proper funds not later than the first day of the next month.

Notwithstanding the general rule stated above, the commissioner of revenue is not required to make daily deposits if (1) the volume of tax receipts cannot be processed daily with available resources, or (2) receipts cannot be immediately identified for posting to accounts.

Sec. 5. REVENUE SHORTFALL; CONTINGENT TAX INCREASE

(a) The commissioner of finance shall prepare a forecast of state revenues and expenditures in November, 1988. If the forecast indicates that general fund receipts will be less than originally estimated and

(1) if the amount of the budget and cash flow reserve account is estimated to be less than \$150,000,000 at the end of the 1988-1989 biennium, then each of the income tax rates applicable to individuals, trusts, and estates under Minnesota Statutes, section 290.06, subdivisions 2c, must be increased by 0.25 of a

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percentage point and the corporate franchise tax rate applicable to corporations under Minnesota Statutes, section 290.06, subdivision 1, must be increased by 0.4 of a percentage point; or

(2) if the amount of the budget and cash flow reserve account is estimated to be less than \$50,000,000 at the end of the 1988-1989 biennium, each of the income tax rates applicable to individuals, trusts, and estates under Minnesota Statutes, section 290.06, subdivision 2c, must be increased by 0.5 of a percentage point, and the corporate franchise tax rate applicable to corporations under Minnesota Statutes, section 290.06, subdivision 1, must be increased by 0.8 of a percentage point.

The resulting rates apply to taxable years beginning after December 31, 1987. The commissioner of finance shall notify the revisor of statutes of the increased rates and the revisor shall publish the revised rates in the next edition of the Minnesota Statutes.

The commissioner of finance shall notify the commissioner of revenue of the increased rates. The commissioner of revenue shall prepare forms for taxable years beginning after December 31, 1987 based on the contingent tax rates and shall prepare and distribute new withholding tables for payroll periods beginning after December 31, 1988.

(b) For taxable years beginning during calendar year 1988, no penalties or interest may be imposed on underpayments of estimated tax that result from an increase in tax rates imposed under this section.

Sec. 6. REPEALER.

Laws 1986, First Special Session chapter 1, article 5, section 8, is repealed.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective July 1, 1987.

ARTICLE 19

MISCELLANEOUS

Section 1. Minnesota Statutes 1986, section 16A.48, subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE.** A verified claim may be submitted to the concerned agency head for refund of money in the treasury to which the state is not entitled. The claimant must submit with the claim a complete statement of facts and reasons for the refund. The agency head shall consider and approve or disapprove the claim, attach a statement of reasons, and forward the claim to the commissioner for settlement. No claim may be approved unless the agency

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head first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoffor recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any setoffor recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.

Sec. 2. APPROPRIATION; OCCUPATION TAX REFUNDS; PROCEDURE.

The provisions of Laws 1985, First Special Session chapter 14, article 18, sections 7 and 8, shall be controlling with respect to appropriations for the payment of the occupation tax refunds referenced therein, notwithstanding anything to the contrary in Minnesota Statutes, section 16A.48, subdivision 2. Provided, however, that no occupation tax refund referred to in Laws 1985, First Special Session chapter 14, article 18, sections 7 and 8, shall be appropriated or paid unless the commissioner of revenue first obtains from the attorney general written certification that the refund will not jeopardize any rights of setoffor recoupment held by the state and any subdivision thereof, including local governments. Upon the exercise of any setoffor recoupment, the attorney general shall certify the amount of the remainder, if any, that may be appropriated and paid.

Sec. 3. BECKER COUNTY LAND CONVEYANCE.

Notwithstanding Minnesota Statutes, section 92.45, or any other law, the commissioner of revenue shall convey to Duane and Gloria Fuchs, Glyndon, Minnesota, the state's interest in the land in Becker county described as Lot 2, Township 138n, 43 West Dahlgren Beach, which became forfeited for unpaid property taxes in 1984. The attorney general shall prepare appropriate instruments of conveyance with a precise description of all land subject to this section. The price for the land shall be the same as that provided for a redemption under Minnesota Statutes, section 281.02.

Sec. 4. DAKOTA COUNTY BONDING AUTHORIZATION; REPEAL.

If a bill styled as House File No. 919 is enacted in the 1987 session of the legislature, and the bill provides bonding authorization for Dakota county, the provisions of the bill that provide that authority are repealed, notwithstanding any other law to the contrary.

Sec. 5. APPROPRIATION.

Subdivision 1. There is appropriated from the general fund to the commissioner of revenue the following amounts for administration of this act.

	<u>1987</u>	<u>1988</u>	<u>1989</u>
<u>Revenue</u>	<u>\$58,000</u>	<u>\$269,000</u>	<u>\$303,000</u>

Of these amounts, \$58,000 in fiscal year

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1987; \$269,000 in fiscal year 1988; and \$224,000 in fiscal year 1989, are to be used for the taxpayer services program and \$79,000 in fiscal year 1989 is to be used for the revenue operations program, provided that in each of fiscal years 1988 and 1987, up to \$37,500 may be reduced from the amounts otherwise provided to be used for the taxpayer services program and used for development and maintenance of a comprehensive property tax data base in the department of revenue, which may be expended only at the direction of the chair of the tax committee of the House of Representatives and the chair of the committee on taxes and tax laws of the Senate. The department's complement is increased by four as of July 1, 1987, to be assigned to the taxpayer services program.

Subd. 2. \$3,900,000 is appropriated to the commissioner of revenue from the general fund for the biennium ending June 30, 1989. This money is to be used by the commissioner to provide grants and other assistance to counties for the purpose of developing, upgrading, and maintaining county property tax administrative data collection and processing systems.

Subd. 3. \$30,000 is appropriated to the commissioner of revenue to be used to update and improve the income tax sample used by the department of revenue for research purposes.

Subd. 4. \$100,000 is appropriated to the commissioner of revenue from the general fund for the biennium ending June 30, 1989. This amount is to be used by the commissioner to reimburse the cost for the average expenses incurred in obtaining the senior accreditation of each county assessor and of the department of revenue's senior appraisers and regional representatives.

Sec. 6. EFFECTIVE DATE.

Section 1 is effective the day after final enactment and shall govern the disposition of any claim for a tax refund unpaid as of that date.

Approved May 28, 1987

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